

FEDERAL REGISTER

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TITLE 3—THE PRESIDENT

PROCLAMATION 3073

IMPOSING IMPORT FEES ON SHELLED AND PREPARED ALMONDS AND ON SHELLED FILBERTS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. WHEREAS, pursuant to section 22 of the Agricultural Adjustment Act, as added by section 31 of the Act of August 24, 1935, 49 Stat. 773, reenacted by section 1 of the Act of June 3, 1937, 50 Stat. 246, and amended by section 3 of the Act of July 3, 1948, 62 Stat. 1248, section 3 of the Act of June 28, 1950, 64 Stat. 261, and section 8 (b) of the Act of June 16, 1951, 65 Stat. 72 (7 U. S. C. 624), on April 13, 1950 the President caused the United States Tariff Commission to make an investigation to determine whether almonds, filberts, walnuts, Brazil nuts, or cashews are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, certain programs undertaken by the Department of Agriculture with respect to almonds, pecans, filberts, or walnuts, or to reduce substantially the amount of any product processed in the United States from almonds, pecans, filberts, or walnuts with respect to which any such program is being undertaken; and

2. WHEREAS the said Commission instituted such an investigation on April 13, 1950, which it has been conducting since that date on a continuing basis and in the course of which it has from time to time reported to the President regarding the need for the imposition of restrictions pursuant to the said section 22 in order to prevent imports of almonds, filberts, walnuts, Brazil nuts, or cashews from rendering ineffective, or materially interfering with, the said programs, or from reducing substantially the amount of any product processed in the United States from almonds, pecans, filberts, or walnuts with respect to which any such program is being undertaken; and

3. WHEREAS import fees on shelled almonds and blanched, roasted, or other-

wise prepared or preserved almonds (not including almond paste) imposed pursuant to the President's proclamation of September 29, 1953 (Proclamation 3034; 18 F. R. 6345), which proclamation was issued under the authority of the said section 22, will cease to apply to such articles entered, or withdrawn from warehouse, for consumption after September 30, 1954; and

4. WHEREAS further in the course of the said investigation, on September 24, 1954, the said Commission reported to me its findings regarding the need for import restrictions under the said section 22 on certain tree nuts after September 30, 1954; and

5. WHEREAS, on the basis of such report of September 24, 1954, I find that shelled almonds, and blanched, roasted, or otherwise prepared or preserved almonds (not including almond paste), and shelled filberts, whether or not blanched, are practically certain to be imported into the United States during the period October 1, 1954, to September 30, 1955, both dates inclusive, under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the programs undertaken by the Department of Agriculture under the Agricultural Marketing Agreement Act of 1937, as amended, with respect to almonds and filberts, which programs will be in operation during such period; and

6. WHEREAS I find and declare that the imposition of the import fees hereinafter proclaimed is shown by such investigation of the Commission to be necessary in order that the entry of almonds and filberts described in the fifth recital of this proclamation will not render or tend to render ineffective, or materially interfere with, the said programs undertaken by the Department of Agriculture:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the said section 22 of the Agricultural Adjustment Act, as amended, do hereby proclaim that a fee of 10 cents per pound, but not more than 50 per centum ad valorem, shall be imposed upon shelled almonds and blanched, roasted, or otherwise prepared or preserved almonds (not

(Continued on p. 6625)

CONTENTS

THE PRESIDENT

Proclamation	Page
Imposing import fees on shelled and prepared almonds and on shelled filberts.....	6623

EXECUTIVE AGENCIES

Agricultural Marketing Service Rules and regulations: Avocados grown in South Florida; maturity regulations (2 documents).....	6625
---	------

Agriculture Department
See Agricultural Marketing Service.

Alien Property Office

Notices: Vested property; intention to return: Debie, Andre Victor Leon Clement.....	6666
Firszt, Bernard.....	6666
Leitner, Kunigunde.....	6666
Societe Anonyme Dognin.....	6666
Societe Produits Chimiques "Lion Noir" Produits d'Entretien "Lion Noir-Eclipse".....	6666

Coast Guard

Rules and regulations: Procedures for purchasing; contracts; bonds and guaranties; miscellaneous amendments...	6640
---	------

Commerce Department
See Foreign Commerce Bureau.

Customs Bureau

Notices: Cloth classifiable as waterproof cloth.....	6663
Rules and regulations: Vessels in foreign and domestic trades; customs relations with contiguous foreign territory; customs financial and accounting procedure; over-time compensation.....	6628

Defense Department

Revision of delegation of authority to Secretary with respect to contracts for procurement of public utility services for periods not exceeding ten years (see General Services Administration).

FEDERAL REGISTER

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Order from
Superintendent of Documents, Government
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CONTENTS—Continued

Education Office	Page
Rules and regulations:	
Federal assistance beginning July 1, 1954, in the construction of minimum school facilities in areas affected by Federal activities.....	6647
Federal Communications Commission	
Notices:	
Greenwood Broadcasting Co., Inc., and Cherokee Broadcasting Co.; notice of pre-hearing conference.....	6664
Federal Power Commission	
Notices:	
Hearings, etc.:	
Hogan, Arnold.....	6665
Puget Sound Power & Light Co., and Public Utility District No. 1 of Douglas County, Wash.....	6665

CONTENTS—Continued

Federal Power Commission—Continued	Page
Notices—Continued	
Hearings, etc.—Continued	
Texas Eastern Transmission Corp. and Texas Eastern Penn-Jersey Transmission Corp.....	6664
United Gas Pipe Line Co.....	6664
Wisconsin Southern Gas Co. and Georgia Gas Co.....	6664
Federal Trade Commission	
Proposed rule making:	
Fountain Pen & Mechanical Pencil Industry; notice of hearing and opportunity to present views, suggestions, or objections.....	6650
Rules and regulations:	
Chemical Soil Conditioner Industry; promulgation of trade practice rules.....	6626
Foreign Commerce Bureau	
Notices:	
Chang, William C.; order conditionally restoring export privileges.....	6663
Rules and regulations:	
Licensing policies and related special provisions; Austria.....	6626
Foreign Operations Administration	
Rules and regulations:	
Procedures for furnishing assistance to cooperating countries.....	6629
General Services Administration	
Notices:	
Secretary of Defense; revision of delegation of authority with respect to contracts for procurement of public utility services for periods not exceeding ten years.....	6665
Health, Education, and Welfare Department	
See Education Office.	
Indian Affairs Bureau	
Rules and regulations:	
Enrollment of Indians of the Cabazon, Augustine, and Torres-Martinez Bands of Mission Indians in California; persons to be enrolled.....	6640
Interior Department	
See also Indian Affairs Bureau;	
Land Management Bureau; National Park Service.	
Notices:	
Southwestern Power Administration; marketing of electric power and energy; Acting Administrator.....	6664
Interstate Commerce Commission	
Notices:	
Applications for relief:	
Automobile bodies from Ionia, Mich., to Metuchen, N. J., and from Chicago, Ill., to Norfolk, Va.....	6668
Containers from Niles, Warren, and North Warren, Ohio, to New York and Maine.....	6667

CONTENTS—Continued

Interstate Commerce Commission—Continued	Page
Notices—Continued	
Applications for relief—Con.	
Engines, steam or internal combustion, from Detroit, Mich., to Enterprise, Ala.....	6667
Lighting fixtures, fluorescent, from Cedars and Stout, Miss., to Pacific Coast territory.....	6667
Scrap iron from St. Louis, Mo., and East St. Louis, Ill., to Emco, Ala.....	6667
Steel or wrought iron pipe from official, western trunk-line, southern and south-western territories to points in Texas.....	6667
Proposed rule making:	
Transportation of explosives and other dangerous articles; miscellaneous amendments.....	6650
Justice Department	
See Alien Property Office.	
Land Management Bureau	
Notices:	
New Mexico; order providing for opening of public lands restored from Tucumcari Project.....	6663
National Park Service	
Rules and regulations:	
General regulations; commercial automobiles and busses.....	6647
Securities and Exchange Commission	
Notices:	
Hearings, etc.:	
Arkansas Louisiana Gas Co., Blackstone Valley Gas and Electric Co. et al.....	6665
Treasury Department	
See Coast Guard; Customs Bureau.	
CODIFICATION GUIDE	
A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.	
Title 3	Page
Chapter I (Proclamations):	
3073.....	6623
Title 7	
Chapter IX:	
Part 969 (2 documents).....	6625
Title 15	
Chapter III:	
Part 373.....	6626
Title 16	
Chapter I:	
Part 184 (proposed).....	6650
Part 222.....	6626
Title 19	
Chapter I:	
Part 4.....	6628
Part 5.....	6628
Part 24.....	6628
Title 22	
Chapter II:	
Part 201.....	6629

CODIFICATION GUIDE—Con.

Title 25	Page
Chapter I:	
Part 54	6640
Title 33	
Chapter I:	
Part 116	6640
Part 118	6640
Part 120	6640
Title 36	
Chapter I:	
Part 1	6647
Title 45	
Chapter I:	
Part 108	6647
Title 49	
Chapter I:	
Part 72 (proposed)	6651
Part 73 (proposed)	6651

CODIFICATION GUIDE—Con.

Title 49—Continued	Page
Chapter I—Continued	
Part 74 (proposed)	6658
Part 75 (proposed)	6659
Part 77 (proposed)	6659
Part 78 (proposed)	6659

including almond paste) entered, or withdrawn from warehouse, for consumption during the period October 1, 1954, to September 30, 1955, both dates inclusive, in excess of an aggregate quantity of 5,000,000 pounds; and that a fee of 10 cents per pound, but not more than 50 per centum ad valorem, shall be imposed upon shelled filberts, whether or not blanched, entered, or withdrawn from warehouse, for consumption during the period October 1, 1954, to September

30, 1955, both dates inclusive, in excess of an aggregate quantity of 6,000,000 pounds. The said fees shall be in addition to any other duties imposed on the importation of such almonds and filberts.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

DONE at the City of Washington this eleventh day of October in the year of our Lord nineteen hundred and [SEAL] fifty-four, and of the Independence of the United States of America the one hundred and seventy-ninth.

DWIGHT D. EISENHOWER

By the President:

HERBERT HOOVER, Jr.,
Acting Secretary of State.

[F. R. Doc. 54-8175; Filed, Oct. 14, 1954;
10:35 a. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Avocado Order 3, Amdt. 2]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

MATURITY REGULATION

Findings. 1. Pursuant to the marketing agreement and Order No. 69 (7 CFR Part 969; 19 F. R. 3439) regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of the Lula variety of avocados grown in "District 2" in South Florida.

It is, therefore, ordered as follows: The provisions in paragraph (b) (1) of § 969.303 (Avocado Order 3, as amended;

19 F. R. 5469, 5967) as pertains to the variety Lula (corrected to read Lula), in Columns 2, 3 and 4, respectively, of the table contained therein, are hereby further amended to read as follows:

(1) Variety	(2) Beginning date	(3) Minimum weight in ounces	(4) Ending date
Lula (District 1)	Oct. 18, 1954	16	Nov. 1, 1954
Lula (District 2)	Oct. 18, 1954	14	Nov. 1, 1954

Effective time. The provisions of this amendment shall become effective at 12:01 a. m., e. s. t., October 18, 1954.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 11, 1954.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 54-8112; Filed, Oct. 14, 1954;
8:48 a. m.]

[Avocado Order 4, Amdt. 1]

PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

MATURITY REGULATIONS

Findings. 1. Pursuant to the marketing agreement and Order No. 69 (7 CFR Part 969; 19 F. R. 3439) regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the aforesaid marketing agreement and order, and upon other avail-

able information, it is hereby found that the limitation of handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that, as hereinafter set forth, the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time, and this amendment relieves restrictions on the handling of the Blair variety of avocados grown in South Florida.

It is, therefore, ordered as follows:

1. The provisions in paragraph (b) (2) of § 969.304 (Avocado Order 4; 19 F. R. 5967) as pertains to the variety Blair in Columns 1 and 2, respectively, of the table contained therein are hereby terminated; and

2. The table contained in paragraph (b) (1) of § 969.304 (Avocado Order 4; 19 F. R. 5967) is hereby amended to read as follows:

(1) Variety	(2) Beginning date	(3) Minimum weight in ounces	(4) Ending date
Fairchild	Sept. 15, 1954	16	Sept. 20, 1954
Nairobi	Sept. 20, 1954	16	Oct. 1, 1954
Vaca	Oct. 6, 1954	14	Oct. 20, 1954
Nelson	Oct. 25, 1954	14	Nov. 8, 1954
Avon	Nov. 1, 1954	12	Nov. 15, 1954
Blair	Oct. 18, 1954	16	Nov. 1, 1954

Effective time. The provisions of this amendment shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: October 11, 1954.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 54-8115; Filed, Oct. 14, 1954;
8:48 a. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign Com- merce, Department of Commerce

Subchapter B—Export Regulations

[7th Gen. Rev. of Export Regs., Amdt. 9¹]

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

AUSTRIA

Section 373.66 *Austria or Sweden* is amended in the following particulars:

a. The title of the section is amended by deleting the words "or Sweden" to read as follows: "§ 373.66 *Austria*".

b. The first sentence of paragraph (a) is amended by deleting the words "or Sweden" to read as follows: "Each applicant for a license to export commodities to Austria shall show in the import permit number item on the application (Form IT- or FC-419), the number of the import certificate or other import authorization upon which the application is based."

(Sec. 3, 63 Stat. 7; 65 Stat. 43; 67 Stat. 62; 50 U. S. C. App. Sup. 2023. E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

This amendment shall become effective as of October 7, 1954.

LORING K. MACY,
Director,
Bureau of Foreign Commerce.

[F. R. Doc. 54-8134; Filed, Oct. 14, 1954;
8:52 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

Subchapter B—Trade Practice Conference Rules

[File No. 21-451]

PART 222—CHEMICAL SOIL CONDITIONER INDUSTRY

PROMULGATION OF TRADE PRACTICE RULES

Due proceedings having been held under the trade practice conference pro-

¹ This amendment was published in Current Export Bulletin No. 738, dated October 7, 1954.

² For exportations to Austria, the applicant must show the Austrian import identification number. Such numbers run in series from 1,000 to 999,999 inclusive, and in all instances will be preceded by the letters "IKN."

cedure in pursuance of the act of Congress approved September 26, 1914, as amended (Federal Trade Commission Act), and other provisions of law administered by the Commission;

It is now ordered, That the trade practice rules, as hereinafter set forth, which have been approved by the Commission in this proceeding, be promulgated as of October 15, 1954.

Statement by the Commission. Trade practice rules for the Chemical Soil Conditioner Industry, as hereinafter set forth, are promulgated by the Federal Trade Commission under the trade practice conference procedure.

The rules are directed to the maintenance of free and fair competition in the industry and to the elimination and prevention of unfair methods of competition, unfair or deceptive acts or practices, and other trade abuses. To this end they afford helpful guidance to all members of the industry.

The industry for which such trade practice rules are established is composed of persons, firms, corporations, and organizations engaged in the production or marketing of commercial products having as their active ingredients materials falling within the following groups: Polyelectrolytes such as polyvinyls and polyacrylics, and cellulose derivatives, and lignin derivatives, which are represented as having a primary function of stabilizing aggregates in soil to which they have been applied and thereby improving the resistance of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, and/or otherwise favorably modifying its structural or physical properties.

Proceedings leading to the establishment of rules were instituted pursuant to an application by the industry. A general industry conference was held under the auspices of the Commission in its offices in Washington, D. C., at which proposals for rules were submitted for consideration of the Commission. Thereafter, a draft of proposed rules was released by the Commission and public hearing thereon was held in New York City, at which all interested or affected parties were afforded opportunity to present their views, suggestions, or objections regarding the rules.

Following such hearing, and upon consideration of the entire matter, final action was taken by the Commission whereby it approved the rules hereinafter set forth.

Such rules become operative thirty (30) days from the date of promulgation.

The rules. These rules promulgated by the Commission are designed to foster and promote the maintenance of fair competitive conditions in the interest of protecting industry, trade, and the public. It is to this end, and to the exclusion of any act or practice which fixes or controls prices through combination or agreement, or which unreasonably restrains trade or suppresses competition, or otherwise unlawfully injures,

destroys, or prevents competition, that the rules are to be applied.

Sec.	Definition.
222.0	Definition.
222.1	Misrepresentation and deception in the sale of industry products.
222.2	Guarantee, warranties, etc.
222.3	Fictitious price lists.
222.4	Substitution of products.
222.5	Defamation of competitors or false disparagement of their products.
222.6	Imitation of trade-marks, etc.
222.7	Misrepresentation as to character of business.
222.8	Procurement of competitors' confidential information.
222.9	Selling below cost.
222.10	Prohibited discrimination.
222.11	Prohibited forms of trade restraints (unlawful price fixing, etc.).
222.12	Aiding or abetting use of unfair trade practices.

AUTHORITY: §§ 222.0 to 222.12 issued under sec. 6, 38 Stat. 722; 15 U. S. C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U. S. C. 45.

General statement. The unfair trade practices embraced in the rules in this part are considered to be unfair methods of competition, unfair or deceptive acts or practices, or other illegal practices, prohibited under laws administered by the Federal Trade Commission; and appropriate proceedings in the public interest will be taken by the Commission to prevent the use, by any person, partnership, corporation, or other organization subject to its jurisdiction, of such unlawful practices in commerce.

§ 222.0 **Definition.** As used in this part, the term "industry product" or "industry products" means any synthetic organic chemical substance, or chemically modified natural substance, which is represented as having a primary function of forming and/or stabilizing soil aggregates in soil to which it has been applied and thereby improving the resistance of such soil to the slaking action of water, increasing its water and air permeability, improving the resistance of its surface to crusting, improving its ease of cultivation, and/or otherwise favorably modifying its structural or physical properties.

NOTE: Present commercial products within the above definition have as their active ingredients materials falling within the following groups: Polyelectrolytes such as polyvinyls and polyacrylics, and cellulose derivatives, and lignin derivatives, which may with more exactitude be described as follows: Synthetic acidic or basic organic chemical substances and salts thereof; any synthetic organic substance which on contact with the soil generates a synthetic acidic or basic organic chemical substance or salt thereof; acidic or basic non-nitrogenous naturally-occurring products and salts thereof; and acidic or basic non-nitrogenous chemically modified naturally-occurring products and salts thereof.

§ 222.1 **Misrepresentation and deception in the sale of industry products.** (a) In the sale, offering for sale, or distribution of industry products, it is an unfair trade practice to represent or imply, either with or without accompanying qualifications or statements, that an industry product:

(1) Will effect a beneficial crop response in each and every type and kind of soil;

(2) Is a substitute, in any significant degree, for nutrient material;

(3) Is a complete substitute for added natural organic matter, except in its potential to form and/or stabilize soil aggregates;

(4) Will effect an appreciable modification of the texture (i. e., sand-silt-clay ratio) of any soil; and

(5) Will permanently exert a conditioning effect upon a treated soil.

(b) It is also an unfair trade practice in the sale, offering for sale, or distribution of industry products, to represent or imply that:

(1) A particular quantity, or the contents of any package or container of an industry product, will effectively treat any specified area of soil, without clear and adequate disclosure, in conjunction with such representation, of the depth to which such area will be effectively benefited;

(2) An industry product will effectively form and/or stabilize soil aggregates, when the maximum benefit is dependent upon preparation of the soil for application of the industry product or adequate mixing of said product with the soil, without clear disclosure of all relevant information regarding such preparation and/or mixing;

(3) An industry product, which has been mixed, packaged or otherwise combined with a plant nutrient, will exert a beneficial effect as a soil conditioner and/or fertilizer, without clear and adequate disclosure, in conjunction with such representation, of (i) the area and depth of soil which will be effectively conditioned (see subparagraph (1) of this paragraph) and (ii) the percentage of the weight of the entire mixture which is represented by each fertilizing constituent present in said mixture.

(4) Except to the extent that surface crusting is reduced, erosion in some degree controlled, and emergence of germinating plants facilitated, the surface application of industry products on uncultivated or untilled soil, either by dusting in the case of dry material, or sprinkling in the case of a liquid, is sufficient to "condition" the soil. [Rule 1]

§ 222.2 Guarantees, warranties, etc.

(a) It is an unfair trade practice to use, or cause to be used, any guarantee or warranty which is false, misleading, deceptive, or unfair to the purchasing or consuming public.

(b) The prohibitions of this section are applicable with respect to any guarantee or warranty in which the terms and conditions relating to the obligations of the guarantor or warrantor are deceptively minimized or stated, or in which the obligations of the guarantor or warrantor are impractical of fulfillment; and also applicable to the use of any guarantee or warranty in respect of which the guarantor or warrantor fails or refuses to observe scrupulously his obligations thereunder.

(c) It is also an unfair trade practice to represent any industry product as being "guaranteed" unless the nature and extent of the undertaking, and the identity of the guarantor, are conjunctively disclosed. [Rule 2]

§ 222.3 *Fictitious price lists.* The publishing or circulating by any member of the industry of false or misleading price quotations, price lists, terms or conditions of sale, or reports as to production or sales, with the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice. [Rule 3]

§ 222.4 *Substitution of products.* The practice of shipping or delivering products which do not conform to samples submitted, to specifications upon which the sale is consummated, or to representations made prior to securing the order, without the consent of the purchasers to such substitutions and with the capacity and tendency or effect of misleading or deceiving the purchasing or consuming public, is an unfair trade practice. [Rule 4]

§ 222.5 *Defamation of competitors or false disparagement of their products.* The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade, quality, or manufacture of the products of competitors, or of their business methods, selling prices, values, credit terms, policies, services, or conditions of employment, is an unfair trade practice. [Rule 5]

§ 222.6 *Imitation of trade-marks, etc.* The practice of imitating, or causing to be imitated, or directly or indirectly promoting or aiding the imitation of, the trade-marks, trade names, or other exclusively owned symbols or marks of identification of competitors which have not been directly, or by operation of law, dedicated to the public, where such imitation has the capacity and tendency or effect of misleading or deceiving purchasers, prospective purchasers, or the consuming public, is an unfair trade practice. [Rule 6]

§ 222.7 *Misrepresentation as to character of business.* It is an unfair trade practice for any member of the industry to represent, directly or indirectly, through use of the word "mill" or "mills," or the word "manufacturer," or any other word, term, or representation of similar import or meaning, in his corporate or trade name, or otherwise, that he is a manufacturer of industry products, or that he is the owner or operator of a mill, factory, or producing company manufacturing industry products, when such is not the fact, or in any other manner to misrepresent the character, extent, or type of his business. [Rule 7]

§ 222.8 *Procurement of competitors' confidential information.* It is an unfair trade practice for any member of the industry to obtain information concerning the business of a competitor by bribery of an employee or agent of such competitor, by false or misleading statements or representations, by the impersonation of one in authority, or by any other unfair means, and to use the information so obtained so as substan-

tially to injure competition or unreasonably restrain trade. [Rule 8]

§ 222.9 *Selling below cost.* The practice of selling industry products at a price less than the cost thereof to the seller, with the purpose or intent, and where the effect may be, to injure, suppress, or stifle competition or tend to create a monopoly in the production or sale of such products, is an unfair trade practice. As used in this section, the term "cost" means the total cost to the seller, including the costs of acquisition, processing, preparation for marketing, sale, and delivery. [Rule 9]

§ 222.10 *Prohibited discrimination*¹—
(a) *Prohibited discriminatory prices, or rebates, refunds, discounts, credits, commissions, etc., which effect unlawful price discrimination.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to grant or allow, secretly or openly, directly or indirectly, any rebate, refund, discount, credit, commission, or other form of price differential, where such rebate, refund, discount, credit, commission, or other form of price differential, effects a discrimination in price between different purchasers of goods of like grade and quality, where either or any of the purchases involved therein are in commerce, and where the effect thereof may be substantially to lessen competition or tend to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, or with customers of either of them: *Provided, however*—

(1) That the goods involved in any such transaction are sold for use, consumption, or resale within any place under the jurisdiction of the United States;

(2) That nothing contained in this paragraph shall prevent differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are to such purchasers sold or delivered;

(3) That nothing contained in this paragraph shall prevent persons engaged in selling goods, wares, or merchandise in commerce from selecting their own customers in bona fide transactions and not in restraint of trade;

(4) That nothing contained in this paragraph shall prevent price changes from time to time where in response to

¹ As used in section 10, the term "commerce" means "trade or commerce among the several States and with foreign nations, or between the District of Columbia or any Territory of the United States and any State, Territory, or foreign nation, or between any insular possessions or other places under the jurisdiction of the United States, or between any such possession or place and any State or Territory of the United States or the District of Columbia or any foreign nation, or within the District of Columbia or any Territory or any insular possession or other place under the jurisdiction of the United States."

changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(b) *Prohibited brokerage and commissions.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, to pay or grant, or to receive or accept, anything of value as a commission, brokerage, or other compensation, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods, wares, or merchandise, either to the other party to such transaction or to an agent, representative, or other intermediary therein where such intermediary is acting in fact for or in behalf, or is subject to the direct or indirect control, of any party to such transaction other than the person by whom such compensation is so granted or paid.

(c) *Prohibited advertising or promotional allowances, etc.* It is an unfair trade practice for any member of the industry engaged in commerce to pay or contract for the payment of advertising or promotional allowances or any other thing of value to or for the benefit of a customer of such member in the course of such commerce as compensation or in consideration for any services or facilities furnished by or through such customer in connection with the processing, handling, sale, or offering for sale of any products or commodities manufactured, sold, or offered for sale by such member, unless such payment or consideration is available on proportionally equal terms to all other customers competing in the distribution of such products or commodities.

(d) *Prohibited discriminatory services or facilities.* It is an unfair trade practice for any member of the industry engaged in commerce to discriminate in favor of one purchaser against another purchaser or purchasers of a commodity bought for resale, with or without processing, by contracting to furnish or furnishing, or by contributing to the furnishing of, any services or facilities connected with the processing, handling, sale, or offering for sale of such commodity so purchased upon terms not accorded to all competing purchasers on proportionally equal terms.

(e) *Inducing or receiving an illegal discrimination in price.* It is an unfair trade practice for any member of the industry engaged in commerce, in the course of such commerce, knowingly to induce or receive a discrimination in price which is prohibited by the foregoing provisions of this section.

(f) *Exemptions.* The inhibitions of this section shall not apply to purchases of their supplies for their own use by schools, colleges, universities, public libraries, churches, hospitals, and charitable institutions not operated for profit.

(g) *Purchases by U. S. Government; applicability of Robinson-Patman Anti-*

discrimination Act to same. In an opinion submitted to the Secretary of War under date of December 28, 1936, the U. S. Attorney General advised that the Robinson-Patman Antidiscrimination Act "is not applicable to Government contracts for supplies." (38 Opinions, Attorney General 539.)

NOTE: In complaint proceedings charging discrimination in price or services or facilities furnished, and upon proof having been made of such discrimination, the burden of rebutting the prima facie case thus made by showing justification shall be upon the person charged; and unless justification shall be affirmatively shown, the Commission is authorized to issue an order terminating the discrimination: *Provided, however,* That nothing herein contained shall prevent a seller rebutting the prima facie case thus made by showing that his lower price or the furnishing of services or facilities to any purchaser or purchasers was made in good faith to meet an equally low price of a competitor, or the services or facilities furnished by a competitor. See section 2 (b), Clayton Act.

[Rule 10]

§ 222.11 *Prohibited forms of trade restraints (unlawful price fixing, etc.)* It is an unfair trade practice for any member of the industry, either directly or indirectly, to engage in any planned common course of action, or to enter into or take part in any understanding, agreement, combination, or conspiracy, with one or more members of the industry, or with any other person or persons, to fix or maintain the price of any goods or otherwise unlawfully to restrain trade; or to use any form of threat, intimidation, or coercion to induce any member of the industry or other person or persons to engage in any such planned common course of action, or to become a party to any such understanding, agreement, combination, or conspiracy. [Rule 11]

§ 222.12 *Aiding or abetting use of unfair trade practices.* It is an unfair trade practice for any person, firm, or corporation to aid, abet, coerce, or induce another, directly or indirectly, to use or promote the use of any unfair trade practice specified in the rules in this part, or of any other unfair method of

* The inhibitions of this section are subject to Public Law 542, approved July 14, 1952—66 Stat. 632 (the McGuire Act) which provides that with respect to a commodity which bears, or the label or container of which bears, the trade-mark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, a seller of such a commodity may enter into a contract or agreement with a buyer thereof which establishes a minimum or stipulated price at which such commodity may be resold by such buyer when such contract or agreement is lawful as applied to intrastate transactions under the laws of the State, Territory, or territorial jurisdiction in which the resale is to be made or to which the commodity is to be transported for such resale, and when such contract or agreement is not between manufacturers, or between wholesalers, or between brokers, or between factors, or between retailers, or between persons, firms, or corporations in competition with each other.

competition or unfair or deceptive act or practice. [Rule 12]

Issued: October 12, 1954.

Promulgated by the Federal Trade Commission October 15, 1954.

[SEAL]

ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 54-8104; Filed, Oct. 14, 1954;
8:46 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53626]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

PART 5—CUSTOMS RELATIONS WITH CONTIGUOUS FOREIGN TERRITORY

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

OVERTIME COMPENSATION

The Customs Regulations are amended as stated hereinafter, for the following purposes:

a. To conform to the amendment of section 451 of the Tariff Act of 1930, as amended (19 U. S. C. 1451), by the Customs Simplification Act of 1954 by providing that cash may be deposited in an amount to be fixed by the collector of customs or his authorized representative, in lieu of the giving of a bond to secure reimbursement for services at night, or on a Sunday or holiday, under the customs overtime laws (19 U. S. C. 267, 1451).

b. To authorize the collector of customs, prior to the expected arrival of a pleasure vessel or private aircraft, to designate a customs employee to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond.

Sections 4.10, 4.30, 5.2, and 24.16 are amended as follows:

1. Section 4.10 is amended by deleting the last sentence and substituting therefor the following: "Such request shall not be approved unless the required cash deposit or bond on customs Form 7567 or 7569 shall have been received."

(Secs. 448, 451, 624, 46 Stat. 714, 715, as amended, 759; 19 U. S. C. 1448, 1451, 1624)

2. Section 4.30 (c) is amended by substituting "Such request shall not be approved unless the required cash deposit or bond on customs Form 7567 or 7569 shall have been received" for "Such request for overtime services shall not be approved by the collector unless a bond on customs Form 7567 or 7569 shall have been filed" in the fifth sentence.

3. Footnote 62, appended to § 4.30 (c), is amended to read as follows:

"Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to

deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the act of February 13, 1911, as amended (U. S. C., 1952 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. * * * (Tariff Act of 1930, section 451, as amended, 19 U. S. C. 1451.)

(R. S. 2793, as amended, secs. 448, 450-454, 490, 46 Stat. 714, 715, as amended, 716, 736; 19 U. S. C. 288, 1448, 1450-1454, 1490)

4. Section 5.2 (c) is amended by substituting "the required cash deposit or bond on customs Form 7567, 7569, or 7597 shall have been received" for "a bond on customs Form 7567, 7569, or 7597 shall have been filed".

(Secs. 451, 624, 46 Stat. 715, as amended, 759; 19 U. S. C. 1451, 1624)

5. The first two sentences of footnote 4, appended to § 24.16 (a) are amended to read as follows:

"Before any such special license to unlade shall be granted, the master, owner, or agent of such vessel or vehicle, or the person in charge of such vehicle, shall be required to deposit sufficient money to pay, or to give a bond in an amount to be fixed by the Secretary conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with such unloading at night or on Sunday or a holiday, in accordance with the provisions of section 5 of the Act of February 13, 1911, as amended (U. S. C., 1952 edition, title 19, sec. 267). In lieu of such deposit or bond the owner or agent of any vessel or vehicle or line of vessels or vehicles may execute a bond in an amount to be fixed by the Secretary of the Treasury to cover and include the issuance of special licenses for the unloading of such vessels or vehicles for a period not to exceed one year. * * *

6. The third sentence of footnote 4, appended to § 24.16 (a), is amended by inserting "deposits sufficient money to pay, or" after "person requesting such services" and by substituting "an amount" for "a penal sum".

7. Section 24.16 (c) is amended to read as follows:

(c) *Application and bond.* (1) Except as provided for in subparagraph (2) of this paragraph, an application for services of customs employees at night or on a Sunday or holiday, customs Form 3171, or 3853, supported by the required cash deposit or bond, shall be filed in the office of the collector before the assignment of such employees for reimbursable overtime services. The cash deposit to secure reimbursement shall be fixed by the collector or his authorized representative in an amount sufficient to pay the maximum probable compensation and expenses of the customs employees in connection with the particular services requested. The bond to secure reimbursement shall be on customs Form 7597 or 7599 and in an amount to be fixed by the collector, unless another bond

containing a provision to secure reimbursement is on file.

(2) Prior to the expected arrival of a pleasure vessel or private aircraft the collector may designate a customs employee to proceed to the place of expected arrival to receive an application for night, Sunday, or holiday services in connection with the arrival of such vessel or aircraft, together with the required cash deposit or bond. In each such case the assignment to perform services shall be conditional upon the receipt of the appropriate application and security.

(3) An application on customs Form 3853 for overtime services of customs employees, when supported by the required cash deposit or bond on customs Form 7599, may be granted for any period not longer than for 1 year nor longer than the period of the supporting bond. In such a case, the application must show the exact times when the overtime services will be needed, unless arrangements are made so that the proper customs officer will be seasonably notified during official hours in advance of the services requested as to the exact times that the services will be needed.

(Sec. 5, 36 Stat. 901, as amended, secs. 450, 451, 452, 624, 46 Stat. 715, as amended, 759, sec. 6, 49 Stat. 1385, as amended; 19 U. S. C. 261, 267, 1450, 1451, 1452, 46 U. S. C. 382b)

[SEAL] RALPH KELLY,
Commissioner of Customs.

Approved: October 11, 1954.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.
(P. R. Doc. 54-8126; Filed, Oct. 14, 1954;
8:50 a. m.)

TITLE 22—FOREIGN RELATIONS

Chapter II—Foreign Operations Administration

PART 201—PROCEDURES FOR FURNISHING ASSISTANCE TO COOPERATING COUNTRIES

- Sec.
201.1 Definition of terms.
201.2 What this part does.

Subpart A—Authorization Procedure

- 201.3 Non-project type assistance: Allotments, procurement authorization applications, procurement authorizations and sub-authorizations.
201.4 Project type assistance: Allotments for projects, project proposals, project agreements and project implementation orders.
201.5 Contracts and deliveries eligible for financing under procurement authorizations and project implementation orders.
201.6 General provisions incorporated in procurement authorizations and project implementation orders.
201.7 Ocean transportation.
201.8 Ship's dollar disbursements.
201.9 Procurement by U. S. Government agencies.

Subpart B—Responsibilities of Importers and Suppliers

- 201.10 Use of procurement authorization or project implementation order number.
201.11 Contracts and deliveries.
201.12 Marking requirements.
201.13 Information to United States small business.

Subpart C—Reimbursement for Assistance

- Sec.
201.14 Types of reimbursement.
201.15 Reimbursement for specific procurement payments by a cooperating country.
201.16 Letter of commitment to a banking institution.
201.17 Letter of commitment to a supplier.
201.18 Documents required for reimbursement.
201.19 Procurement by U. S. Government agencies.

Subpart D—Price Provisions

- 201.20 Purchase in bulk of commodities.
201.21 Purchase prices.

Subpart E—Responsibilities of Banking Institutions

- 201.22 Responsibilities of banking institutions in connection with letters of commitment issued to them.

Subpart F—Waiver Authority and Transitory Provisions

- 201.23 Waiver and amendment authority.
201.24 Continuation in effect of certain prior issuances.
201.25 Transitory provisions.

AUTHORITY: §§ 201.1 to 201.25 issued under sec. 525, Pub. Law 665, 83d Cong. Interpret or apply secs. 131, 132, 201, 302, 504, 509, 510, 522, Pub. Law 665, 83d Cong.

§ 201.1 *Definition of terms.* For the purposes of this part:

(a) "The act" means the Mutual Security Act of 1954 (Pub. Law 665, 83d Cong.).

(b) "FOA" means the Foreign Operations Administration, including, when applicable, each USOM (paragraph (e) of this section).

(c) "The Director" means the Director of the Foreign Operations Administration or the Deputy Director or any person authorized to perform the functions of the Director or Deputy Director in respect of this part.

(d) "Cooperating country" means any country in which FOA has a program under the act.

(e) "USOM" means the FOA mission to any cooperating country.

(f) "The Director, USOM" means the head of the FOA mission to any cooperating country or the Deputy Director of any such mission or any person authorized to perform the functions of the Director or Deputy Director, USOM, in respect of this part.

(g) "Banking institution in the United States" means a banking institution organized under the laws of the United States, any State, territory or possession thereof, or the District of Columbia.

(h) "Approved applicant" means the cooperating country or any person or organization, governmental or otherwise, named as approved applicant in any letter of commitment issued to a banking institution in the United States pursuant to Subpart C of this part; and shall include any agent authorized to act on behalf of an approved applicant.

(i) "Reimbursement" means any of the methods set forth in Subpart C of this part used by FOA to pay for any commodity or service furnished to a cooperating country under the act.

(j) "Delivery" means the transfer to or for the account of a cooperating

country of custody and right of possession of any commodity or the rendering to or for the account of a cooperating country of any service.

(k) "Importer" means any person or organization, governmental or otherwise, to which a cooperating country has made a subauthorization (see § 201.3 (d)), or which has been designated as an "authorized agent" in a project implementation order (hereinafter called "PIO") or subauthorized by any such authorized agent (see § 201.4).

(l) "Supplier" means any person or organization, governmental or otherwise, which furnishes any commodity or service under the act.

(m) "Source" means the country or area from which a commodity is shipped to the cooperating country. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" shall mean the country or area from which the commodity was shipped to the free port or bonded warehouse.

(n) "Commission" means any sum paid or to be paid to an agent, broker, or other representative in connection with a sale financed by FOA.

(o) "Discount" means that amount by which the supplier's gross sales price is reduced by a credit, refund or other allowance made or to be made to the buyer or consignee.

(p) "Project" means a single integrated undertaking or enterprise within a cooperating country, which has been mutually agreed upon by FOA and the cooperating country government and which requires financing by FOA of services and/or commodities specifically needed for the accomplishment of the undertaking or enterprise.

§ 201.2 *What this part does.* (a) (1) Subpart A of this part describes the procedures for enabling cooperating countries to use FOA funds to get commodities and services under the act. Subpart A is divided into two broad categories. The first category deals with the authorization procedures for procurement of commodities and services in non-project type assistance programs. In general, it provides for the submission of procurement authorization applications by cooperating countries and the issuance of procurement authorizations (hereinafter called "PAs") by FOA and sub-authorizations thereunder by cooperating countries.

(2) The second broad category deals with the authorization procedures for the procurement of commodities and services required for projects. In general, it provides for the development of a project proposal jointly by the cooperating country and the applicable USOM, the execution of a project agreement between the cooperating country and FOA, and the issuance of PIOs thereunder. PIOs may be issued for various segments of a project but the only PIOs subject to this part (except where otherwise indicated in the applicable PIOs) are those PIOs which provide for the procurement of those commodities and services covered by the FOA Commodity Code Book.

(b) In general, the fact that a particular purchase is to be paid for by FOA will not basically affect the way in which an importer or supplier does business. Subpart B of this part, however, describes certain things which an importer must do when he has been told that he is buying under the act, and which a supplier must do when he obtains an order that is to be paid with FOA funds.

(c) Subpart C of this part describes the procedures for obtaining reimbursement for assistance furnished under the act.

(d) Subpart D of this part contains the price provisions applicable to purchases of commodities that are to be paid with FOA funds.

(e) Subpart E of this part describes the responsibility of banking institutions in the United States in connection with letters of commitment issued to them by the Director.

SUBPART A—AUTHORIZATION PROCEDURE

§ 201.3 *Non-project type assistance: Allotments, procurement authorization applications, procurement authorizations and sub-authorizations.*—(a) *Allotments and procurement authorization applications.* FOA will from time to time determine an amount of FOA funds to be allotted for various cooperating countries for non-project type assistance, to be available for the purchase of commodities and services. From time to time the cooperating country will indicate on PA applications the dollar and/or local currency amounts of the commodities and services which the cooperating country desires to procure with its allotted funds. Supplementary information with respect to PA applications may be required from time to time.

(b) *Procurement authorizations.* (1) FOA will review each PA application to determine that the proposed purchases of commodities and services for delivery to the cooperating country are in accordance with the objectives of the act. Upon such a determination, FOA will, as soon as practicable, issue appropriate PAs for acceptance by the cooperating country. These PAs will cover the commodities and services for the purchase of which the cooperating country may make sub-authorizations to importers, and will specify the maximum dollar and/or local currency amounts which FOA will finance, the source from which the commodities and services (other than ocean transportation) are to be obtained, the periods during which contracts and/or deliveries are to be made, and any other provisions deemed necessary by FOA. Each PA will bear a PA number, and the issuance of a PA will constitute authority to the cooperating country to sub-authorize its importers to use the procurement authorization number in placing orders for the purchase of the commodities and services specified in the procurement authorization to be delivered to the cooperating country. Cooperating countries may request FOA to make changes in PAs.

(2) PA numbers will indicate the cooperating country to which the authori-

zation is given, the commodity code number, the source from which the commodity or services are to be obtained, and a serial number. An example of a PA number is as follows:

40 Cooperating country	010 Commodity code	00 Source	5001 Serial No.
Greece.....	Bread Grains.	U. S. and Possessions.	

(c) *Commodity codes.* PA applications will be made in terms of the FOA Commodity Codes which are listed in the official FOA Commodity Code Book, as revised July 1, 1952, or in subsequent revisions. Authorization will normally be made in the same commodity codes, but in certain instances the PA may be restricted to one or more commodities within a commodity code.

(d) *Sub-authorizations.* For all procurement under PAs, the cooperating country will make sub-authorizations to importers within the terms of the PAs. The cooperating country, in sub-authorizing, will instruct the importer to use the PA number in placing orders, and will specify to importers the commodities or services, source, applicable currency, periods during which contracts and deliveries must be made, and all of the special provisions of the PA which are applicable to the sub-authorization.

§ 201.4 *Project type assistance: Allotments for projects, project proposals, project agreements and project implementation orders.*—(a) *Allotments for projects and project proposals.* Apart from the allotments referred to in § 201.3 (a), FOA will from time to time determine an amount of FOA funds to be allotted for project purposes. From time to time project proposals developed jointly by the applicable USOM and the cooperating country will be prepared showing the nature of the project and the dollar and/or local currency amounts of commodities and services needed for the project.

(b) *Project agreements and project implementation orders.* (1) FOA will review each project proposal to determine that the proposed project and purchases of commodities and services for the project are in accordance with the objectives of the act, and, upon such a determination, FOA will, as soon as practicable, enter into an appropriate project agreement with representatives of the cooperating country. The project agreement will describe the nature of the project, indicate amounts of funds by currency allocated to the project by FOA and the cooperating country, respectively, the duration of the agreement, and such other provisions as may be deemed necessary by FOA. Procurement for the project of commodities and services covered by the FOA Commodity Code Book shall, unless otherwise provided, be made only upon issuance of a PIO and in accordance with the terms of the PIO issued by FOA in Washington, D. C. or the applicable USOM and accepted by the cooperating country representative. With regard to the use

of FOA funds, these PIOs will cover the commodities and services to be procured for the project, will designate the importers authorized to purchase such commodities and services therefor, and will specify the maximum dollar and/or local currency amounts which FOA will finance, the source from which the commodities and services (other than ocean transportation) are to be obtained, the periods during which contracts and/or deliveries are to be made, and any other provisions deemed necessary by FOA. Each PIO will have a PIO number, and the issuance of a PIO will constitute authority to importers to use the PIO number in placing orders for the purchase of the commodities and services specified in the PIO to be delivered to the project on behalf of the cooperating country. Cooperating countries may request FOA to make changes in any PIO.

(2) PIO numbers will indicate the applicable cooperating country, the field of activity (e. g., public health, education), the project number, and a serial number. An example of a PIO number is as follows:

65	23	001	550001
Cooperating country	Activity	Project No.	Serial No.
Iran.....	Industry (cement plant),	-----	-----

(c) *Commodity codes.* Commodities and services needed for projects will be indicated on project proposals in terms of the FOA Commodity Codes which are listed in the official FOA Commodity Code Book, as revised July 1, 1952, or in subsequent revisions.

§ 201.5 *Contracts and deliveries eligible for financing under procurement authorizations and project implementation orders—(a) Commodity and service PAs and PIOs—(1) Contracts.* (i) Contracts for the purchase of commodities and services will not be eligible for financing under a PA or PIO if made prior to the date of issuance, or in the event that an initial contracting date is specified, if made prior to the specified date.

(ii) PAs and PIOs will indicate, in addition to an initial contracting date, a contract cut-off date. The contract cut-off date will normally be three to six months subsequent to the first day of the month following the month in which the PA or PIO is issued. In making sub-authorizations under a PA or PIO the cooperating country or authorized agent, as the case may be, must specify that contracts under the sub-authorizations must be made on or before the contract cut-off date. Contracts made after the contract cut-off date will not be eligible for financing under the PA or PIO unless deliveries under such contracts are made within the specified delivery period (see subparagraph (3) of this paragraph).

(2) *Reporting.* With respect to PAs only, the cooperating country shall, in accordance with instructions issued by FOA, report within 30 days after the contract cut-off date the total or estimated total value of all contracts entered into pursuant to sub-authorizations

made under the PA, whether or not deliveries have actually been made. If the total or estimated total value of such contracts, as so reported, is less than the total dollar and/or local currency amount of the PA, the PA will be reduced by the amount of the difference. If no such report is filed by the cooperating country within 30 days after the contract cut-off date, FOA will assume that the PA has been fully sub-authorized and contracted for, and no reduction in the PA will be made.

(3) *Deliveries.* Each PA or PIO will also state a delivery period. The period will be indicated normally by two dates: (i) The date before which deliveries may not be made (initial delivery date) and (ii) the date on or before which deliveries must be made (terminal delivery date). Where however, an initial delivery date is not specified, the date of issuance of the PA or PIO shall be deemed to be the initial delivery date. Deliveries made before the initial delivery date or after the terminal delivery date will not be eligible for FOA financing under the PA or PIO. FOA may extend the terminal delivery date for limited periods on an individual contract basis, if the contract was made on or before the contract cut-off date.

(b) *Submission of documentation of delivery.* In the case of reimbursement by letter of commitment to a bank, the submission of documentation shall be in accordance with § 201.16 (c) (2). In the case of other types of reimbursement, proper documentation of deliveries, in accordance with § 201.18 must be presented within 90 days after the latest date on which deliveries may take place under the PA or PIO, to the Controller, FOA, Washington, D. C., or to the appropriate USOM Controller if so specified in the PA or PIO.

(c) *Ocean transportation PAs or PIOs.* Ocean transportation PAs or PIOs will not be subject to the provisions of paragraphs (a) and (b) of this section, but will be subject to the following provisions:

(1) *Deliveries.* (i) Delivery of ocean transportation services may be made at any time on or after the initial delivery date and on or before the terminal delivery date specified on the PA or PIO.

(ii) The date of delivery of ocean transportation services shall be deemed to be the date of the relative bill of lading, airway bill, or the cablegram alternatively submitted under § 201.18.

(2) *Submission of documentation of delivery.* In the case of reimbursement by letter of commitment to a bank, the submission of documentation shall be in accordance with § 201.16 (c) (2). In the case of other types of reimbursement, proper documentation in accordance with § 201.18 (b) must be presented, within 120 days after the date of the bill of lading covering ocean shipment, to the Controller, FOA, Washington, D. C. or to the appropriate USOM Controller if so specified in the PA or PIO.

§ 201.6 *General provisions incorporated in PAs and PIOs.* Each PA or PIO issued shall be deemed to incorporate the following provisions:

(a) *Reimbursement.* Upon receipt of the documents required for reimbursement by this part, FOA will make reimbursement up to the amount specified in the PA or PIO for the assistance described in the PA or PIO, such reimbursement to be made by any one of the methods prescribed in Subpart C of this part.

(b) *Assignment of right to receive reimbursement.* The right to receive reimbursement under a PA or PIO may be assigned, in whole or in part, to a banking institution in the United States, but no such assignment shall be valid unless the proposed assignee has been named in a letter of commitment or otherwise approved by the Director or a Director, USOM.

(c) *Modification or revocation.* The Director reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke any PA or PIO (including termination of deliveries under the PA or PIO). In the event of any supplement, modification, or revocation, the right of reimbursement will be modified or terminated accordingly, except that if a letter of commitment has been issued, the rights of the holder of any such letter of commitment shall not be affected except to the extent specified in such letter of commitment.

(d) *Refund to Director.* (1) The cooperating country will pay promptly to the Director upon demand the entire amount reimbursed (or such lesser amount as the Director may demand) whenever full documentation is not furnished within the specified time, or whenever it appears to the Director that the documentation submitted by or on behalf of the cooperating country (or any approved applicant named in a letter of commitment) does not support the expenditure for which the reimbursement was made, or whenever the Director determines that the reimbursement was improper as being in violation of any of the provisions of the act, any acts amendatory thereof or supplemental thereto, any relevant appropriation acts, or any rules, regulations or procedures of FOA promulgated under any of said acts.

(2) Demands for refunds from cooperating countries under this part may be made by the Director within five years after the date of reimbursement by FOA.

(e) *Discounts.* If a contract for which reimbursement is claimed provides for one or more discounts, only the invoice amount after discount (seller's gross price less all discounts) will be eligible for reimbursement.

(f) *Commissions — (1) Purchasing agents.* No commission paid or to be paid to an agent, broker or other representative of an importer will be eligible for reimbursement.

(2) *Sales agents.* A commission paid or to be paid to an agent, broker, or other representative of the supplier (domestic or foreign) is not prohibited and will be eligible for reimbursement. However, if the amount of any such commission exceeds the amounts paid by the supplier's competitive sellers or exceeds the amounts paid by the supplier in

comparable sales, the Director may, subsequent to reimbursement, request repayment from the importing country of the amount of such commission. The amount of such commission shall be fully reported by the supplier on FOA Form 280 (see § 201.18 (d)). A payment, credit, or other allowance to a foreign distributor of a supplier, in connection with direct imports by such a distributor for his own account, however, is not to be considered as an agent's commission but as a discount, as defined in paragraph (e) of this section, and must be deducted from the gross amount of the supplier's invoice.

(g) *Adjustment refunds and adjustment credits.* (1) If an importer receives an adjustment refund, or an adjustment credit, arising out of the terms of a contract or out of the normal customs of the trade, the Director will, in making reimbursement directly to a cooperating country, withhold the amount of such refund or credit; in case of other types of reimbursement, the Director will request repayment of the amount of such refund or credit from the cooperating country.

(2) Upon settlement of a claim for an adjustment refund or an adjustment credit, the supplier shall immediately give written notice to the Controller, FOA, Washington, D. C., indicating the PA or PIO number, the name and address of the importer, the date and amount of the original invoice, and the reason for the refund or credit and the amount thereof.

(h) *Insurance.* (1) Dollar payments of premiums for ocean marine insurance (including war risk insurance) on FOA-financed commodities procured in the United States will be eligible for financing by FOA under a commodity PA or PIO if such insurance is:

(i) Placed by the importer (or by the supplier or any other person if authorized so to do by the importer in a cable, written document, or the letter of credit); and

(ii) Placed at the lowest available competitive rate.

(2) The importer, supplier, or other person placing such insurance shall furnish the PA or PIO number to the insurer. The supplier shall state the name and address of the insurer on the Invoice-and-Contract Abstract (see reverse side of Form FOA-280 set out in § 201.18 (d)).

(3) The insurer shall file a statement with the Controller, FOA, Washington, D. C., by the twentieth of each month, setting forth the PA or PIO number for each insurance policy issued during the previous calendar month under FOA financing, and indicating in detail the character of the coverage, the amounts of such policies, amounts of premiums, names and addresses of the insured, names and addresses of persons receiving discounts or commissions in connection with such policies, and the amount of each such discount or commission. Accompanying such statement shall be a certificate in substantially the following form signed by the insurer:

The undersigned certifies to the Director of the Foreign Operations Administration

that the attached statement of accounts relating to FOA-financed ocean marine insurance policies is, to the best of its knowledge, complete and correct; and that the undersigned, in issuing such insurance policies, has not given or received any benefit, by way of side payments, "kickbacks" or otherwise, except as is indicated in the attached statement.

(4) Upon settlement of a claim on account of insurance financed by FOA, the insurer shall immediately give written notice to the Controller, FOA, Washington, D. C., indicating the PA or PIO number, the name and address of the insured, and the amount of the insurance recovery. FOA will request repayment from the cooperating country of the dollar amount of insurance recovered by the insured.

(i) *Airmail distribution of ocean bills of lading.* The cooperating country or authorized agent will instruct importers to advise shippers to airmail at the time of loading one copy (or photostat) of ocean or charter party bill of lading or airway bill to the Controller, USOM, American Embassy, in the capital city of the cooperating country receiving the shipment.

(j) *Price limitations.* FOA will not make reimbursement directly to a cooperating country for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States, adjusted as provided in § 201.20, nor will FOA make reimbursement directly to a cooperating country for a purchase of any commodity at a price higher than the price calculated in accordance with the applicable price provisions in § 201.21; in cases of other types of reimbursement, the Director will demand repayment from the cooperating country of the entire amount so reimbursed.

(k) *Export licenses.* Where procurement is effected in the United States for any commodity covered by a PA or PIO, export license, to the extent required, must be obtained from the U. S. Department of Commerce. All exports from the United States of commodities furnished under the act are subject to such export quotas as may be established and such export license controls as may be exercised by the U. S. Department of Commerce.

(l) *Diversions.* (1) The cooperating country agrees, and, as a condition of the receipt by an importer of authority to use the PA or PIO in placing orders, the importer shall be deemed to have agreed, that, upon a determination by the Director that such action is necessary to accomplish the purposes of the act, FOA shall be vested with title to FOA-financed commodities which have been delivered but not then off-loaded in ports of the cooperating country, and the cooperating country will, upon such determination, assign, execute and furnish, or cause to be assigned, executed and furnished, to FOA documents requested by FOA relating to such FOA-financed commodities including, but not limited to, negotiable bills of lading, supplier's invoices, packing lists and inspection certificates. The Director is authorized to take such action with respect to such commodities as he may

deem necessary and proper including, without limiting the generality of the foregoing, the following: (i) To direct masters of vessels carrying such commodities to divert them from the designated ports of destination to such other ports as may be designated by FOA, and (ii) to cause to be inserted in relevant charter parties, bills of lading and other shipping documents a diversion clause substantially in the following form:

FOA may designate an alternate port of discharge within the range of ports covered by the applicable conference tariff. Diversion charges as per tariff to apply including deviation insurance and extra handling cost if incurred.

(2) In the event of any such determination by the Director and action taken pursuant to subparagraph (1) of this paragraph, FOA will, subject to availability of funds therefor, assume responsibility for extra costs of transportation services (including, where applicable, marine insurance and extra handling costs) caused by such action but FOA shall not be subject to any liability to the cooperating country, its importers or the approved applicant, except for the payment of such costs as FOA, in its sole discretion, may deem appropriate under the circumstances.

(3) Notwithstanding the foregoing subparagraphs (1) and (2) of this paragraph, if a letter of commitment has been issued, the rights of the holder of any such letter of commitment shall not be affected except to the extent specified in such letter of commitment.

(m) *Re-export.* The re-export of commodities financed by FOA, within three years of the date of reimbursement therefor, in the form or substantially in the form received, except as authorized by FOA, is not permitted, and in the event of any unauthorized re-export the cooperating country will pay promptly to the Director upon demand the entire amount reimbursed or such lesser or greater amount as the Director may deem appropriate under the circumstances of the particular transaction, not to exceed, however, the amount realized from the sale of any such commodity.

(n) *Special provisions.* The provisions of this part may be waived, amended or supplemented by special provision in the PA or PIO, or otherwise, pursuant to § 201.23.

§ 201.7 *Ocean transportation.* (a) Ocean transportation PAs or PIOs and, in the case of c. & f. (cost and freight) or c. i. f. (cost, insurance and freight) shipments, the PAs or PIOs for the commodity involved, may be used by the cooperating country to cover dollar and/or local currency services furnished in connection with the shipment of:

(1) FOA-financed cargoes to the cooperating country on flag vessels other than those of the cooperating country, (i) where FOA dollar reimbursement is requested, to the extent that payment for such services is made in dollars in accordance with the custom of the trade, or, if not in accordance with the custom of the trade, only if approved by the Office of Transportation, FOA, Washington, D. C.; and (ii) where FOA local currency reimbursement is requested, to

the extent that payment for such services is made in the specified local currency in accordance with the custom of the trade or other acceptable local currencies.

(2) Non-FOA-financed cargoes to any cooperating country on United States flag vessels.

(3) Non-FOA-financed cargoes on flag vessels other than those of the cooperating country, but only in special circumstances where specifically authorized in writing by FOA to do so pursuant to a request in writing.

(b) The rate charged by a supplier of ocean transportation services shall not exceed the prevailing rate for similar freight contracts, nor the rate paid to the supplier for similar ocean transportation services by other customers similarly situated.

(c) Reimbursement will be made as follows:

(1) *Dry bulk cargo shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to ports of discharge at rates established by charter parties; provided that reimbursement of 90 percent of such cost will be made on presentation, in accordance with § 201.18, of documents covering at least 90 percent of the freight cost, the balance, if any, to be payable within 60 days after final settlement of dispatch/demurrage claims and documented by the vessel's signed laytime statement(s).

(ii) Reimbursement for loading, trimming and other related shipping expenses may be made when such expenses are not for the account of the ship nor included in inland transportation charges.

(iii) Reimbursement will not be made for demurrage incurred in excess of dispatch earnings. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; the balance supported by the vessel's signed laytime statement(s), shall then be refunded to the Controller, FOA, Washington, D. C., within 90 days after date of discharge of the cargo on which dispatch was earned.

(iv) No brokerage commissions in excess of 2½ percent of the freight and no address commission will be eligible for reimbursement; the names of all persons participating in the eligible brokerage commission must be indicated on the charter party.

(2) *Dry cargo liner shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to ports of discharge at the rates indicated in the bill of lading, but not in excess of the conference rates for such services.

(ii) Reimbursement for related shipping expenses may be made when such expenses are not for the account of the ship nor included in inland transportation charges.

(3) *Tanker shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to ports of discharge at rates established by charter parties or contracts of affreightment.

(ii) Reimbursement for related shipping expenses may be made when such expenses are not for the account of the

ship nor included in inland transportation charges.

(d) All charters (whether single voyage charters, or consecutive voyage charters, or time charters) of all vessels must be submitted to the Office of Transportation, FOA, Washington, D. C., for the prior review and approval.

(e) The requirements for use of United States flag vessels are contained in section 509 of the act, section 106 of the Mutual Security Appropriation Act, 1955 (Pub. Law 778, 83d Congress) and section 901 (b) of the Merchant Marine Act, 1936, added by Pub. Law 664, 83d Congress. These provisions generally require that at least 50 percent of the tonnage of FOA-financed commodities transported on ocean vessels be so transported on United States flag commercial vessels.

§ 201.8 *Ships' dollar disbursements.* Ships' dollar disbursement PAs may be authorized by FOA in special circumstances and may be used by the cooperating country to cover dollar costs of bunker supplies (and bunker trimming) for flag vessels of the cooperating country under rules and procedures to be specified by FOA.

§ 201.9 *Procurement by U. S. Government agencies.* When a determination has been made that any commodity or service authorized on a PA or PIO is to be procured by a U. S. Government agency, FOA will authorize the U. S. Government agency to procure the commodity or service in accordance with procedures established for such procurement. In the event that such determination is made prior to the issuance of a PA, FOA may issue a "Procurement Authorization and U. S. Government Agency Purchase Requisition."

SUBPART B—RESPONSIBILITIES OF IMPORTERS AND SUPPLIERS

§ 201.10 *Use of PA or PIO number.* (a) Each importer must inform his supplier that the transaction is to be financed by FOA, and must give to his supplier the PA or PIO number that has been given to him. The supplier should request the importer to furnish information regarding, and the importer must inform the supplier of, any special provisions which affect the supplier in carrying out the transaction.

(b) The supplier must put the PA or PIO number on all documents required for reimbursement (see § 201.18), and, when procurement is effected in the United States, should put the PA or PIO number on his export license application (see § 201.6 (k)).

§ 201.11 *Contracts and deliveries.* An importer must comply with the specified contract and delivery dates. A supplier must not accept orders identified by a PA or PIO number unless he expects to comply with the specified contract and delivery dates as notified to him by the importer.

§ 201.12 *Marking requirements.* (a) All commodities, and their shipping containers, furnished to cooperating countries under FOA financing (whether from the U. S. or other source country),

must carry the official FOA emblem designed for the purpose. This identification may be affixed by metal plate, decalcomania, stencil, label, tag, or other means, depending upon the type of commodity or shipping container and the nature of the surface to be marked. The emblems placed on the commodities should be approximately as durable as the goods themselves; the emblems on the shipping containers must be legible until they reach the point of destination.

(b) (1) The size of the emblem may vary depending upon the size of the commodity, package or shipping container to be marked, but should be large enough to be clearly visible at a reasonable distance; wherever possible, the height of the emblem on the shipping container should be at least twice the height of the lettering used in the shipper's marks. In addition, the shipping container will indicate clearly the last four digits of the FOA PA or PIO number and the name of the cooperating country, in characters at least equal in height to the shipper's marks.

(2) The emblem will appear in the colors shown on the samples available in the Office of the Controller, Foreign Operations Administration, Washington 25, D. C.

(c) (1) Raw materials (including grain, coal, petroleum, oil and lubricants) shipped in bulk, vegetable fibers packaged in bales, and semi-finished products which are not packaged or crated are, to the extent compliance is impracticable, excepted from the marking requirements of this section.

(2) If compliance with the provisions of this section is found to be impracticable with respect to other commodities, the cooperating country or supplier will promptly request the Office of the Controller, Foreign Operations Administration, Washington 25, D. C., for an exception from the requirements of this section.

§ 201.13 *Information to United States small business.* To permit FOA, in accordance with section 504 of the act, to give United States suppliers (particularly small business firms) an opportunity to participate in supplying commodities and services financed by FOA, the importer (if not a United States Government agency) shall to the maximum extent possible provide the following information to the Office of Small Business, FOA, Washington 25, D. C., at least 30 days prior to placing any order in excess of \$5,000:

(a) A brief general description and the quantity of commodities or services, with specifications written in English and in such a way as to enable United States suppliers to make offers;

(b) Bid closing date and applicable invitation number; and

(c) Address where invitations or specifications may be obtained.

SUBPART C—REIMBURSEMENT FOR ASSISTANCE

§ 201.14 *Types of reimbursement.* The financing of procurement of commodities or services may be by:

(a) Reimbursement directly to a cooperating country for payments made by it for procurement (see § 201.15);

(b) Issuance of letters of commitment to banking institutions in the United States, undertaking to make reimbursement for payments made by them to suppliers through commercial letters of credit or otherwise on behalf of a cooperating country or an approved applicant (see § 201.16);

(c) Issuance of letters of commitment to suppliers in connection with specific contracts with or on behalf of a cooperating country providing for payments for commodities or services (see § 201.17);

(d) Charges to funds allocated to other departments, agencies, or establishments of the U. S. Government to cover costs incurred in procurement of commodities or services which the Director authorizes from time to time (see § 201.19).

§ 201.15 *Reimbursement for specific procurement payments by a cooperating country.* Reimbursement shall be allowed only for specific payments made by a cooperating country for procurement covered by PAs or PIOs and supported by the documents required for reimbursement by § 201.18.

§ 201.16 *Letter of commitment to a banking institution.* (a) For the purpose of financing procurement through commercial letters of credit or other forms of bank credit, the Director or a Director, USOM, may, at the request of a cooperating country or its authorized agent, issue a letter of commitment to a banking institution in the United States for the purpose of assuring reimbursement, not in excess of a specified amount in dollars or other specified currency and in accordance with the terms of such letter of commitment, for sight payments made for the account of an approved applicant including sight payments for procurement outside the United States (including its territories and possessions). Any such payment by a banking institution in the United States made in anticipation of a letter of commitment and falling within the scope of payments authorized by such letter when issued will be deemed to be payments to be reimbursed by the Director thereunder. The letter of commitment shall be substantially in the form of Exhibit I,¹ adapted to special circumstances. Each letter of commitment may also be issued with the PA or PIO in one document substantially in the form of Exhibit 1-A.¹

(b) Reimbursement under a letter of commitment to a banking institution shall be effected in the amounts specified therein upon presentation of the documents required for reimbursement by § 201.18 and by the letter of commitment.

(c) Each letter of commitment to a banking institution issued shall be deemed to incorporate the following terms and provisions:

(1) The application or request for, and any agreement relating to, any commercial letter of credit issued or confirmed, or payment made, under a letter of commitment to a banking institution in the United States, may be in such form and contain such terms and pro-

visions as the approved applicant and banking institution may agree upon, and the approved applicant and banking institution may agree to any extension of the life of, or any other modification of, or variation from, the terms of any such letter of credit or any agreement covering payments to be made by the banking institution: *Provided*, That such terms and provisions and any such extension, modification or variance are in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment, and in case of any inconsistency or conflict, the terms and provisions of the letter of commitment shall control. In any event every application for a letter of credit and every request for payment shall include the substance of the directions as to documentation required for reimbursement by this part.

(2) Reimbursement shall be made by the Director promptly (but in no event later than 30 days) after receipt by the Director of the documents required for reimbursement by this part, which documents in normal course should be forwarded to the Director promptly, after the banking institution has made the payment for the amount of which reimbursement is sought.

(i) The Voucher SF-1146 shall bear the following certification by the payee: "I certify that the above bill is correct and just; that payment therefor has not been received," shall be addressed to the Foreign Operations Administration, and shall be signed as "Payee" by the approved applicant, or by the banking institution as agent for and in behalf of the approved applicant.

(ii) The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate, or invoice-and-contract abstract. The right of reimbursement for payments made by the banking institution will not be affected by the fact that such abstract may be incomplete, or may indicate non-compliance with any provision of this part, or of the PA or PIO, or of the letter of commitment, or may be inconsistent with other documents required for reimbursement.

(3) The banking institution shall make available to the Director, upon request, a copy of each letter of credit issued or confirmed by it, together with any extension or modification thereof; a copy of each application and agreement relating to such a letter of credit, or to a payment instruction or request, together with any extension or modification thereof; a copy of each document in its possession received by it against payment; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit or payment instruction or request.

(4) Reimbursement to the approved applicant shall be made by check mailed to the banking institution and payable to its order for the account of the approved applicant.

(5) Acceptance by the banking institution of any document in the ordinary course of business in good faith as being a genuine and valid document and suffi-

cient in the premises, and the delivery thereof to the Director, shall constitute full compliance by the banking institution with any provision of this part, the PA, PIO, or of the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a purchase at a price in excess of the market price prevailing in the United States at the time of the purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment, or in excess of the price calculated in accordance with the applicable provisions of §§ 201.7 and 201.21.

(6) The Director, or a Director, USOM, reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke the PA or PIO (including termination of deliveries thereunder): *Provided, however*, That no supplement, modification or revocation shall become effective as to the banking institution until the receipt by it from the Director, or a Director, USOM, of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any payment made prior to receipt of such notice, or any obligation incurred under an irrevocable letter of credit issued or confirmed prior to receipt of such notice, for which the banking institution has not been repaid by the approved applicant (without, however, any obligation on its part to obtain such repayment). The term "PA" or "PIO" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Director, or a Director, USOM, of written notice of the same, subject always, however, to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) In the event the Director, or a Director, USOM, shall direct termination of deliveries under the PA or PIO or revoke such PA or PIO or supplement or modify the same in relation to the disposition of any document or documents and shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instruction of the Director, or a Director, USOM, to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by the Director for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. The banking institution shall have no obligation or liability whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instruc-

¹ Filed with the original document.

tions of the Director, or a Director, USOM.

(8) In the event that the banking institution shall file with FOA a certificate as specified in the third paragraph of § 201.18 (a) (3), or a modified certificate as permitted in § 201.22 (c), it shall be repaid and reimbursed by the Director for the costs, expenses and liabilities paid or incurred by it subsequent to the receipt by FOA of the certificate, as a result either of its following instructions received from the Director, or of its continued holding of documents pending the receipt of such instructions.

(9) The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

§ 201.17 *Letter of commitment to a supplier.* (a) For the purpose of financing specific procurement contracts, the Director or a Director, USOM, may, at the request of a cooperating country or its authorized agent, issue a letter of commitment to a supplier assuring reimbursement under such contract not in excess of a specified amount of dollars and/or local currency. The letter of commitment will be issued only in connection with a specific contract, will specify the PA or PIO under which it is issued, and will contain such further provisions as may be required by the Director or a Director, USOM.

(b) The monies due or to become due under such letter shall be assignable by the supplier only through signing the certification in the space provided on the letter, and only to a banking institution in the United States. If a notice of assignment is sent to the Director and the Department of the Treasury under the Assignment of Claims Act of 1940, as amended, such notice shall not be effective unless the date and fact of such notice is indicated on the letter of commitment.

(c) Reimbursement under a letter of commitment to a supplier shall be effected in the amounts specified therein upon presentation of the documents required for reimbursement by § 201.18 and the letter of commitment.

§ 201.18 *Documents required for reimbursement.* Claims for reimbursement must be supported by the following documents (each of which must be identified by the appropriate PA or PIO number), except when and to the extent specifically waived in writing by the Director, or a Director, USOM:

(a) For cost of any commodity, including ocean freight in c. & f. (cost and freight), and ocean freight and insurance in c. i. f. (cost, insurance and freight) transactions:

(1) Voucher SF-1146 in original and three copies, to be prepared by the supplier or his assignee where a letter of commitment is issued by FOA to the supplier; or, in other cases, by the cooperating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) (i) Supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form FOA-280, set out in paragraph (d) of this section), covering the following:

(a) The cost of the commodity, including ocean freight in c. & f., and ocean freight and insurance in c. i. f. transactions, to be executed by the supplier of the commodity.

(b) The cost of ocean freight in c. & f. and c. i. f. transactions, to be executed by the carrier.

(ii) In the case of financing by reimbursement directly to a cooperating country for payments made by it for procurement (this does not include financing by letters of commitment to banking institutions in the United States or letters of commitment to suppliers), the supplier may, if he desires, submit, and FOA will accept, in lieu of either of the above, a supplier's certificate in duplicate, with invoice-and-contract abstract completed in all applicable respects except as to class of supplier, information as to agents' commissions, domestic and foreign, and domestic unit price information, accompanied by a sealed envelope, addressed to the Controller, FOA, Washington, D. C., with the following statement upon its face, signed by the supplier:

The undersigned certifies that enclosed in this envelope is a copy of an executed Supplier's Certificate (Form FOA-280) covering the item invoiced, which has been filled in wherever applicable. This envelope contains a document intended only for FOA and is to be opened only by FOA.

(iii) If such alternative procedure is used, the signer of the supplier's certificate shall be deemed to have satisfied the requirement in paragraph (10) of the supplier's certificate (paragraph (d) of this section) that he has filled in the applicable portions of the invoice-and-contract abstract.

(3) (i) One copy (or photostat) of ocean or charter party bill of lading, or airway bill, or parcel post receipt.

(ii) In the case of tanker shipments only, one copy (or photostat) of cablegram from ship's agent showing loaded cargo figures and a certificate by the supplier that the bill of lading is not immediately available, and that a copy (or photostat) of the bill of lading will be submitted by the supplier to the Controller, FOA, Washington, D. C., within 120 days from the date of loading.

(iii) In the case of any commodity shipped from the continental United States (excluding Alaska) and financed under a letter of commitment to a banking institution in the United States, FOA will accept in lieu of the documents referred to in the two preceding paragraphs, a certificate from the banking institution to the effect that it has been informed by the approved applicant or supplier that the sale is on an f. o. b. or f. a. s. basis and it is impracticable to furnish an ocean or charter party bill of lading, airway bill or parcel post receipt, and that either:

(a) The banking institution has received a common carrier bill of lading, warehouse receipt, mate's receipt, master's receipt, dock receipt or domestic parcel post receipt (if in non-negotiable form, showing that the commodity has been consigned to or is being held for a person or organization designated by the approved applicant); it has delivered or sent the same, in accordance

with the instructions of the approved applicant, to a person or organization designated by the approved applicant; and it has in its possession a written undertaking of such person or organization (1) to arrange for ocean shipment and to deliver to the banking institution a copy (or photostat) of the ocean or charter party bill of lading, airway bill, or parcel post receipt for forwarding to FOA, or (2) if unable to arrange for ocean shipments within 90 days of the date of the undertaking, to so notify the Controller, FOA, Washington, D. C., and at such time as FOA may request, to deliver to the banking institution for forwarding to FOA, a common carrier bill of lading or warehouse receipt in negotiable form for the commodity; or

(b) The banking institution has received a common carrier bill of lading or warehouse receipt in negotiable form, and is in possession of the same; it has been unable to deliver the same to a person or organization designated by the approved applicant against the written undertaking described in (a) of this subdivision; and it is holding the negotiable common carrier bill of lading or negotiable warehouse receipt subject to the instructions of FOA, and will forward same to FOA when and if so instructed, except that if it becomes possible before any such instructions are received, it will proceed in accordance with (a) of this subdivision.

(4) One copy (or photostat) of supplier's detailed invoice showing quantity, description, gross sales price, net sales price (after deducting all discounts and purchasing agents' commissions applicable) and basis of delivery (e. g., f. o. b. vessel, f. a. s.) of the commodities or services, and either (i) marked "Paid" by the supplier or (ii) endorsed by, or accompanied by a certificate of, an officer of a banking institution indicating that payment has been made in the amount shown on the invoice.

(5) Such additional or substitute documentation as may be required for reimbursement by endorsement upon the PA or PIO or letter of commitment, if any.

(b) For cost of ocean transportation, including ocean freight paid by the supplier of the commodity in f. o. b. and f. a. s. transactions:

(1) Voucher SF-1146 in original and three copies to be prepared by the cooperating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) Supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form FOA-280, set out in paragraph (d) of this section) to be executed by the supplier of the ocean transportation. If the supplier of ocean transportation is not the carrier, an additional supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side, executed by the carrier, covering the cost of ocean freight.

(3) (i) For cargoes shipped under charter party, one copy (or photostat) of charter party. In the case of tanker shipments only, if shipment is not made under charter party, one copy (or photostat) of the contract of affreightment.

(ii) In the case of a term charter party or term contract of affreightment, FOA will accept, in lieu of either of the above, a certificate by the supplier of the ocean transportation, to the effect that a copy (or photostat) of the charter party or contract of affreightment has previously been submitted to FOA in support of a request for reimbursement.

(4) One copy (or photostat) of ocean or charter party bill of lading or airway bill. In the case of tanker shipments only, one copy (or photostat) of cablegram from ship's agent showing loaded cargo figures, and a certificate by the supplier of the ocean transportation that the bill of lading is not immediately available, and that a copy (or photostat) of the bill of lading will be submitted by the supplier of the ocean transportation to the Controller, FOA, Washington, D. C., within 120 days from date of loading.

(5) One copy (or photostat) of the detailed invoice of the supplier of the ocean transportation indicating the vessel, flag and the dollar and/or local currency cost of ocean freight and related transportation charges, and either (i) marked "Paid" by the supplier of the ocean transportation or (ii) endorsed by, or accompanied by a certificate of, an officer of a banking institution indicating that payment has been made in the amount shown on the invoice. If the bill of lading (required by subparagraph (4) of this paragraph) meets the requirements of this subparagraph no invoice is required.

(6) Such additional or substitute documentation as may be required for reimbursement by endorsement upon the PA, PIO, or letter of commitment, if any.

(c) For the cost of services (other than ocean transportation):

(1) Voucher SF-1146, in original and three copies, to be prepared by the supplier or his assignee where letter of commitment is issued by FOA to the supplier; or, in other cases, by the cooperating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) Supplier's Certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form FOA-280, set out in paragraph (d) of this section), covering the total amount for which reimbursement is requested, to be executed by the supplier.

(3) One copy (or photostat) of supplier's detailed invoice describing the services performed, itemizing in detail all dollar and/or local currency costs reimbursable by FOA (showing separately costs of travel, material and equipment, if any) and fees earned and payable, and either (i) marked "Paid" by the supplier, or (ii) endorsed by, or accompanied by a certificate of an officer of a banking institution indicating that payment has been made in the amount shown on the invoice. The invoice shall also indicate: (a) The total estimated dollar and/or local currency cost of services and fees under the contract and reimbursable by FOA; (b) the total amount previously received and/or claimed from FOA as partial payments, detailed by amounts

and dates; (c) the amount invoiced; (d) total estimated cost of services and fees not yet invoiced and reimbursable by FOA. In addition, attached to or endorsed on the invoice, shall be one copy of a Works Progress Certificate signed by the supplier in the following form:

The undersigned certifies that the cost of services reimbursable to the supplier and the amount of fee earned by the supplier up to the date of this certificate are not less than the total payments received or claimed by the supplier under the contract (including the payment claimed under the invoice), and that the supplier has fully complied with the terms and conditions of the contract.

(4) In the event that the dollar and/or local currency cost of services reimbursable by FOA to the supplier includes travel or material or equipment costs:

(i) Receipted vendors' invoices, appropriately detailed as to quantity, description and price; provided that, in respect of individual transactions involving less than \$50 each, the supplier may furnish, in lieu of such receipted invoices, a detailed itemization of the vendors' invoices with payment indicated by the supplier's check numbers or other certification.

(ii) In the case of material or equipment costs only, one copy (or photostat) of the ocean bill of lading, airway bill, parcel post receipt or a certificate by the supplier as follows:

It is impracticable to furnish to FOA an ocean bill of lading, airway bill or parcel post receipt as evidence of delivery of—(material or equipment)—, which has been delivered to the undersigned for use in performing services under the contract. Covering vouchers in the files of the undersigned are available for inspection.

(5) Certificate by an authorized representative of the cooperating country as follows:

The undersigned certifies that (i) the services for which reimbursement is requested have been satisfactorily rendered; (ii) the costs thereof are properly reimbursable, and the fees earned, in accordance with the terms of the contract; and (iii) any reports or recommendations required under the terms of the contract have been received.

(6) Such additional or substitute documentation as may be required for reimbursement by endorsement upon the PA, PIO or letter of commitment, if any.

(d) The supplier shall in all cases execute the supplier's certificate (Form FOA-280) referred to in paragraphs (a) (2), (b) (2) and (c) (2) of this section, which certificate is as follows:

Form 280 (10-54 Revised)
Foreign Operations Administration

SUPPLIER'S CERTIFICATE

FOA Proc. Auth. or Project
Implementation Order No. ____

The supplier hereby acknowledges notice that the sum indicated on the accompanying invoice, as claimed to be due and owing under the terms of the underlying contract, is to be paid out of funds made available by the United States under the Mutual Security Act, as in effect on the date hereof, and subject to FOA Regulation 1, as amended, and further certifies and agrees with the Director of the Foreign Operations Administration as follows:

(1) The supplier is entitled under said contract to the payment of the sum claimed, and he will promptly make appropriate refund to FOA upon request of the Director, in the event of his nonperformance, in whole or in part, under said contract, or for any breach by him of the terms of this certificate.

(2) Adjustment refunds or credits arising out of the terms of the contract or the customs of the trade shall be made direct to the buyer, but the supplier will promptly notify the Director concerning any such adjustment refunds or credits, so that the Director may obtain appropriate refund from the cooperating country. If an adjustment results in an additional charge to the purchaser, the supplier will promptly notify the Director of such additional charge.

(3) If the said contract is on a c. & f. (cost and freight) or c. i. f. (cost, insurance, and freight) basis, the supplier is entitled to payment, under FOA Regulation 1, as amended, of any ocean freight charges included in the sum claimed. The supplier is entitled to payment, under FOA Regulation 1, as amended, of any ocean marine insurance premium charges included in the sum claimed.

(4) The supplier is the producer, manufacturer, processor, or exporter of, or a regular dealer in the commodity, or furnishes the service covered by said contract and has not employed any person to obtain said contract under any agreement for a commission, percentage, or contingent fee, except to the extent, if any, of the payment of a commission to a bona fide established commercial or selling agent employed by the supplier as disclosed on the reverse of this form.

(5) The supplier has not given or received and will not give or receive by way of side payments, "kickbacks," or otherwise, any benefit in connection with said contract except as is disclosed on the reverse of this form, or as is the result of the adjustments referred to in Paragraph 2.

(6) If the supplier is the producer, manufacturer or processor of a commodity, said contract is not a cost-plus-a-percentage-of-cost contract.

(7) The supplier further certifies, on the basis of information obtained from such sources as are available to him, that to the best of his information and belief the purchase price is no higher than the market price (which shall mean the export market price, where such a price is customary in the trade) prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(8) The supplier further certifies that (a) on the basis of information obtained from such sources as are available to him, and to the best of his information and belief, the purchase price is no higher than the price calculated in accordance with the applicable price provisions of FOA Regulation 1, as amended, and he has complied with the rules provided therein; and (b) he has allowed all discounts, including discounts for quantity purchases and prompt payment, customarily allowed his other customers similarly situated.

(9) If the supplier furnishes only a service, he shall not be deemed to certify to paragraphs 7 and 8 but instead certifies that the rate indicated on the reverse of this form for the service rendered does not exceed the prevailing rate, if any, for similar services or the rate paid to the supplier for similar services by other customers similarly situated.

(10) The supplier has filled in the applicable portions of the invoice-and-contract abstract on the reverse hereof, certifies to the correctness of the information shown therein, and will furnish promptly to the Director at his request such additional information in such form as the Director may require concerning price or any other details of the purchase.

Date _____
 Place executed (City, State, Country) _____

 (Authorized signature)

 (Title)

NOTES: (a) Any amendments, deletions of applicable provisions, or substitutions will invalidate this certificate.

(b) False statements herein are punishable by United States law.

(c) The word "Duplicate" must be written after signature on all signed copies other than the original.

Before executing the supplier's certificate, the supplier shall fill in the invoice-and-contract abstract on the reverse side in accordance with the instructions attached to the form. The certificate shall be signed by a responsible official of the supplier, indicating capacity in which signed. The information required by the abstract is generally as follows:

(1) Invoice information, including the supplier's name and address, the importer's name and address, and detailed billing and shipping data.

(2) Information relating to agents' commissions payable.

(3) Contract and price information including a reconciliation of the contract, invoice and domestic unit prices applicable.

(4) Normally, only the original of the Supplier's Certificate (Form FOA-280) should be signed; if for any reason, copies other than the original need to be signed, they should be clearly marked "Duplicate" after the signature.

§ 201.19 Procurement by United States Government agencies. When procurement of a commodity or service is made through United States Government procurement facilities in accordance with § 201.9, arrangements will be made for the reimbursement of the procuring department, agency or establishment by FOA.

SUBPART D—PRICE PROVISIONS

§ 201.20 Purchase in bulk of commodities—(a) Adjusted market price. The term "adjusted market price" means the market price prevailing in the United States at the time of the purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment, as determined by the Director.

(b) *Scope.* This section establishes the procedures for compliance with section 510 of the act, which section applies to all purchases in bulk.

(c) *Determination of adjusted market price.* Determination of the adjusted market price may be made by the Director in such manner as to reflect commonly accepted trade practices. In the case of purchases in bulk made outside the United States, the Director may determine that the purchase price complies with said section 510 of the act, if he determines that such price, plus cost of transportation and related charges at established rates from place of purchase to the cooperating country, does not exceed the market price prevailing in the United States (adjusted for differences in quality and terms of payment), plus cost of transportation and related

charges at established rates to the cooperating country. If the price of any purchase in bulk exceeds the adjusted market price, the cooperating country shall pay promptly to the Director upon demand the entire amount of the purchase price.

§ 201.21 Purchase prices—(a) Scope of this section. (1) (i) Section 510 of the act establishes an upper limit to the prices that may be approved by FOA for purchases in bulk of commodities (see § 201.20). Within that limitation, it is the policy of FOA to make payment for purchases of commodities, whether or not in bulk, which are made at prices that approximate, as nearly as practicable, lowest competitive market prices. It is expected that buyers, making adequate solicitation of suppliers from authorized sources and exercising prudence in their negotiations, will agree to pay no more than such prices.

(ii) The rules set forth in this section are intended as a guide to buyers and sellers in conducting their negotiations. The rules in this part fix the point beyond which purchases will not be eligible for reimbursement by FOA. Compliance with them will make a purchase eligible for financing, and post-audit will be made by FOA to determine whether there has been compliance. If, apart from the rules set forth herein, it appears that the objective of lowest competitive market prices is not being met, FOA will take appropriate action to impose additional limitations, and may, in cases where failure to follow this policy is deemed unreasonable by the Director, require from the cooperating country a refund of the entire amount reimbursed.

(2) The provisions of this section shall apply to all purchases.

(b) *Meaning of terms in this section—*
 (1) *Similar commodity.* One commodity shall be deemed similar to another commodity if both have the same use, afford the purchaser equivalent serviceability, and belong to a type which would ordinarily be sold in the same price line.

(2) *Comparable sale.* (i) The term "comparable sale" includes all sales which are comparable as to quantity, quality, grade, period of delivery, supply area, terms of sale and class of customer.

(ii) If special market conditions exist in a country other than the United States, a sale for export to such country shall not necessarily be deemed to be comparable to a sale for export to any other country.

(3) *Competitive sellers.* "Competitive sellers" shall mean sellers of the same class (manufacturers, merchant exporters, etc.) who are selling the same or similar commodities from the same supply area.

(4) *Manufacturers, producers or processors.* "Manufacturers, producers or processors" shall mean sellers who operate a factory, mill, assembly plant, well, mine or similar facility in which, by mechanical or chemical apparatus or other similar means, raw materials or ingredients are processed, component parts assembled or manipulated, in the preparation of the product for sale. A seller shall not be deemed to be a manufac-

turer, producer or processor in an export sale which involves a commodity which he did not manufacture, produce or process.

(5) *Export differential.* "Export differential" shall mean the difference between a domestic sale price and an export sale price computed either as a percentage of the domestic price or in accordance with any other established practice of the seller.

(6) *Time of purchase.* "Time of purchase" shall mean the day as of which the purchase price, or the method for determining the price, is established between the buyer and the seller.

(c) *Comparison of prices.* (1) Wherever, in this section, the term "same or a similar commodity" is used, comparison, where possible, shall be made with reference to the same commodity. Where such comparison is not possible, comparison shall then be made with a reference to a similar commodity.

(2) Wherever, in this section, a comparison with a domestic sales price is required and such domestic price is on a different delivered basis than the export sales price as, for example, where the domestic price is on an f. o. b. plant basis and the export price is on an f. a. s. basis, addition of inland transportation costs and other related and necessary inland costs to the domestic price may be made in order to afford a proper comparison with the export sales price.

(3) This section requires comparison of a purchase price with other prices at the "time of purchase." In cases where a purchase price is established between the parties substantially in advance of the day on which delivery is to be made, the Director may refuse to recognize such price for reimbursement, if:

(i) The price is excessive in comparison with other prices for the same or a similar commodity at the time of delivery, and

(ii) It is not customary in the trade for such a long term contract to be made, or it is not customary for such a contract to be made without a provision for a change in price to reflect generally prevailing prices for the commodity at the time of delivery.

(d) *Prices for purchases in the United States—(1) Class I; certain listed commodities.* (i) Transactions in Class I shall include all purchases in the United States of any of the following listed commodities:

Cotton, raw.	Oats.
Cotton, linted.	Barley.
Cotton waste.	Grain sorghum.
Silk, raw.	Buckwheat.
Wool, raw.	Rye flour.
Soft hemp.	Wheat flour.
Flax fiber.	Corn flour.
Ramie fiber.	Corn grits.
Abaca or manilla fiber.	Cornmeal.
Rye.	Roller oats.
Sesame seed oil.	Soy flour.
Sisal or henequen fiber.	Rice.
Istle or tula fiber.	Babassu kernels or nuts.
Couch grass or broom root fiber.	Castor beans.
Jute fiber.	Castor oil.
Coir or cocon fiber.	Cocoa butter.
Animal hairs other than wool.	Cottonseed oil.
Corn.	Coconut oil.
	Copra.

Fatty acids; animal, vegetable or marine origin.
 Fish oils.
 Flaxseed.
 Wheat.
 Soap.
 Soybeans.
 Soybean oil.
 Sperm oil.
 Sunflower seed.
 Sunflower seed oil.
 Tallow.
 Tung oil.
 Whale oil.
 Cottonseed cake or meal.
 Soybean cake or meal.
 Linseed cake or meal.
 Peanut cake or meal.
 Other oilseed cakes and meals.
 Wheat mill feeds.
 Mixed animal and poultry feeds.
 Fish scrap and meal.
 Corn byproducts feeds.
 Milk byproducts feeds.
 Grease, inedible.
 Lanolin.

Lard.
 Linseed oil.
 Mustard seed.
 Mustard seed oil.
 Neat's foot oil.
 Olive oil.
 Palm oil.
 Palm kernels.
 Palm kernel oil.
 Peanuts.
 Peanut oil.
 Rapeseed.
 Rapeseed oil.
 Sesame seed.
 Meat byproducts feeds.
 Brewers and distillers byproducts feeds.
 Turpentine.
 Natural resins.
 Tall oil, crude and refined.
 Beans, dry edible.
 Cocoa beans.
 Coffee, green.
 Fruit, dried.
 Fruit, fresh.
 Peas, dry edible.
 Sugar, raw.
 Sugar, refined.

(ii) The price (not including ocean freight or ocean marine insurance) for a Class I purchase shall not exceed the price prevailing in the United States in comparable sales of the commodity, at the time of the purchase, as evidenced by current bid and ask quotations in the appropriate market, adjusted by costs customarily and necessarily incurred in making the export sale.

(2) *Class II; purchases of unlisted commodities from manufacturers, producers or processors (primary sellers).* (i) Transactions in Class II shall include all purchases in the United States from a manufacturer, producer, or processor of any commodity except commodities listed in Class I, or subject to special rules under Class IV below.

(ii) The price (not including ocean freight or ocean marine insurance) for a Class II purchase shall in no case exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity. Nor shall it exceed the sum of the applicable figures determined under (a) and (b) of this subdivision.

(a) *Domestic price base.* (1) The price charged by the supplier in comparable domestic sales of the same or a similar commodity made during the period in which the supplier's current domestic prices have been in effect. If, during that period, more than one price was charged in such sales, the figure under this subdivision shall be the price charged in the comparable domestic sale made nearest, in point of time, to the purchase being submitted for FOA reimbursement.

(2) If the supplier made domestic sales of the same or a similar commodity during the aforementioned period, but such sales were not comparable, the figure under this subdivision shall be the price charged in the domestic sale made nearest, in point of time, to the purchase being submitted for FOA reimbursement, adjusted by the supplier's customary differential between such sales

and the sale involved in the FOA transaction.

(3) If the supplier made no domestic sales of the same or a similar commodity during the aforementioned period, the figure under this subdivision shall be the price prevailing in the United States at the time of purchase, in comparable domestic sales of the same or a similar commodity by the supplier's competitive sellers.

(b) *Export differential.* (1) An export differential, if any, customarily used by the supplier in comparable sales of the same or a similar commodity or currently being used by the supplier in comparable non-FOA sales of the same or a similar commodity.

(2) If the supplier has not previously made any export sales of the same or a similar commodity, the figure under this subdivision shall be an export differential which would be recognized for reimbursement by FOA, in comparable sales, at the time of purchase of the same or a similar commodity by any of the supplier's competitive sellers.

(iii) With respect to Class II transactions, FOA may refuse to recognize for reimbursement any purchase price which includes an export differential that is patently out of line with appropriate export differentials of the supplier's competitive sellers.

(3) *Class III; purchases of unlisted commodities from sellers (secondary sellers) other than manufacturers, producers or processors.* (i) Transactions in Class III shall include all purchases within the United States from a seller other than a manufacturer, producer, or processor of any commodity except commodities listed in Class I or subject to special rules under Class IV below.

(ii) The price (not including ocean freight or ocean marine insurance) for a Class III purchase shall in no case exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity except to the extent necessary to reflect a difference in his acquisition cost of the commodity. Nor shall it exceed the sum of the applicable figures determined under (a) and (b) of this subdivision:

(a) *Domestic price base.* (1) The domestic price of the manufacturer, producer or processor of the commodity, in effect at the time of the purchase by the importer.

(2) If the supplier is unable to ascertain the domestic price of the manufacturer, producer or processor of the commodity, the figure under this subdivision shall be the domestic price of manufacturers, producers or processors of the same or a similar commodity, prevailing at the time of purchase by the importer.

(3) If the same or a similar commodity is not sold in the domestic market, the figure under this subdivision shall be the supplier's cost of acquisition.

(b) *Export differential.* (1) An export differential, if any, customarily used by the supplier in comparable sales of the same or a similar commodity or currently being used by the supplier in comparable non-FOA sales of the same or a similar commodity.

(2) If the supplier has not previously made any export sales of the same or a similar commodity the figure under this subdivision shall be an export differential which would be recognized for reimbursement by FOA, in comparable sales at the time of purchase of the same or similar commodity by any of the supplier's competitive sellers.

(iii) With respect to Class III transactions, FOA may refuse to recognize for reimbursement any purchase price which includes an export differential that is patently out of line with appropriate export differentials of the supplier's competitive sellers.

(4) *Class IV; special rules for certain commodities.* Special rules for certain commodities may be established from time to time by the Director.

(i) *Petroleum products.* (a) Purchases from any source: A price for a purchase of a petroleum product from any source will not be approved for reimbursement if it results in a delivered cost to the cooperating country which is in excess of the lowest prevailing delivered cost on the date the purchase price is fixed for a comparable export sale of the same or similar commodity to such cooperating country from any alternative source of supply from which the commodity is available for export in sufficient quantity.

(b) Purchases from sources other than the United States: A price for a purchase of a petroleum product from sources other than the United States will be approved for reimbursement if it complies with the requirements of § 201.20 and of paragraph (c) (2) of this section, and, unless from a supply area excepted by FOA, does not exceed the lowest competitive market price in the United States for a comparable export sale of the same or a similar commodity on the date the purchase price is fixed.

(c) For purposes of this subdivision "price" shall mean the realized f. o. b. price or realized netback.

(e) *Prices for purchases outside the United States—(1) Commodities listed in Class I in paragraph (d) (1) of this section.* (i) (a) The price plus cost of transportation to the port of entry in the cooperating country for a purchase outside the United States of a commodity listed in Class I in paragraph (d) (1) of this section shall not exceed the price prevailing in the United States in comparable sales of the commodity at the time of purchase, as evidenced by current bid and ask quotations, adjusted by costs customarily and necessarily incurred in making the export sale, plus cost of transportation to the port of entry in the cooperating country.

(b) Nor shall the price exceed the prevailing export market price at the time of purchase in comparable sales of the commodity from the source country.

(ii) Sugar: In addition, in the case of sugar, the purchase price shall not exceed the world price as derived from the daily market quotation on World Raw, No. 4 Contract, F. A. S. Cuban Ports, adjusted for differences in quality, bagging, cost of transportation to destination, and other appropriate considerations.

(2) *Unlisted commodities.* A price for a purchase outside the United States of a commodity which is not listed in Class I in paragraph (d) (1) of this section or subject to special rules under Class IV in paragraph (d) (4) of this section will be approved for reimbursement if:

(i) It does not exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity; and

(ii) It does not exceed the export market price prevailing at the time of purchase in comparable sales of the same or a similar commodity by the "principal suppliers" in the source country, determined by applying to that country as nearly as may be, the rules set forth in paragraph (d) (2) of this section; and

(iii) (a) It results in a delivered cost to the port of entry in the cooperating country no higher than the delivered cost which would have been incurred in a purchase for export of the same or a similar commodity from one of the "principal suppliers" in the United States.

(b) For the purposes of this subparagraph, a supplier shall be deemed a "principal supplier" if he is one of the group of the largest volume suppliers responsible for 50 percent of the export sales of the commodity from the United States, or source country, whichever is applicable.

SUBPART E—RESPONSIBILITIES OF BANKING INSTITUTIONS

§ 201.22 *Responsibilities of banking institutions in connection with letters of commitment issued to them.* (a) Documents required for reimbursement are enumerated in § 201.18. Any additional documents required for reimbursement with respect to any particular transaction will be specified as such in the PA or PIO related to that transaction and to the corresponding letter of commitment itself. A banking institution in the United States (called "bank" in this subpart) holding a letter of commitment is not required by FOA to obtain any documents other than those enumerated in § 201.18 and any additional documents so specified.

(b) A bank is not responsible for the truth or accuracy of the statements contained in any of the documents required for reimbursement. A bank is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein. A bank has no responsibility for the terms or conditions of any project agreement.

(c) (1) A bank's examination of the documents required for reimbursement must be made in accordance with good commercial practice. A bank is responsible to see that the documents required for reimbursement are consistent with the relative PA or PIO and letter of commitment in the following particulars, and no other:

(i) Delivery, to the extent described in paragraph (d) of this section;

(ii) Source, to the extent described in paragraph (e) of this section;

(iii) Destination, to the extent described in paragraph (f) of this section;

(iv) Description, to the extent described in paragraph (g) of this section;

(v) Discounts and purchasing agents' commissions, to the extent described in paragraph (h) of this section;

(vi) If the bank is to be responsible for any additional particulars, these will be specified in the PA, PIO or letter of commitment as additional documents required for reimbursement, or as additional statements to be contained in the documents required for reimbursement.

(2) The right of reimbursement for payments made by a bank in accordance with good commercial practice will not be affected by the information contained in the invoice-and-contract abstract, nor, except with respect to those particulars listed in subdivisions (i) through (vi) of subparagraph (1) of this paragraph, by the fact that the other documents received by the bank, or information or notice received from any source, indicate noncompliance with any provision of this part, or of the PA, PIO or of the letter of commitment.

(3) The foregoing shall not be construed to limit any rights the Director may have against a supplier by reason of statements contained in the supplier's certificate, nor against a cooperating country under § 201.6 (d).

(d) *Delivery.* Section 201.5 (a) (3) and (c) (1) permit delivery under a PA or PIO at any time on or after the initial delivery date and on or before the terminal delivery date specified on the PA or PIO. If any of the documents specified in § 201.18 (a) (3), (b) (4), or (c) (3) (or in the PA, PIO, or letter of commitment) are dated at any time within the period during which delivery is permissible under the above subsections, or any other period permitted by FOA, they are acceptable.

(e) *Source.* If the documents required for reimbursement show shipment from or storage in the area shown as "source" in the PA or PIO, they are acceptable. If such documents show shipment from or storage in another area, the requirement as to source will be satisfied if the bank receives a certificate from the supplier, indicating that the area of "source", as that term is defined in § 201.1 (m), is in fact the same as that indicated in the PA or PIO.

(f) *Destination.* The PA or PIO will show the recipient country. If the documents required for reimbursement are consistent, under good commercial practice, with shipment or transshipment to such country, they are acceptable.

(g) *Description.* The PA or PIO will show the commodity or services by description and FOA commodity code number. In issuing or confirming credits, a bank should see that the commodities or services described are not inconsistent with the FOA description and commodity code number. In making payment, whether under letters of credit or otherwise, the bank should act in accordance with good commercial practice, based on

the description contained in the documents required for reimbursement, and without regard to the commodity code number.

(h) *Discounts and purchasing agents' commissions.* A bank is not required to make independent inquiry as to whether an invoice price includes either discounts or commissions payable to purchasing agents, but should not make payment of any such items when disclosed by the documents required for reimbursement.

(i) *General provisions of PAs and PIOs.* (1) Section 201.6 sets forth certain provisions to be deemed incorporated in each PA or PIO, unless otherwise specified. The documents required for reimbursement by § 201.18 include a supplier's certificate showing compliance with some of these provisions. A bank is entitled to rely on such certificate. Special certificates may also be required by the terms of particular PAs or PIOs or letters of commitment; in such cases, a bank is entitled to rely on such certificates.

(2) Certain other provisions of § 201.6 are included solely for the instruction of suppliers, purchasers, and the cooperating countries themselves, and are not matters for which banks are to assume responsibility. In this category are the provisions of § 201.6 (f) (2), (g), (h), (i), (j), (k), (l) and (m).

(j) *Ocean transportation.* A bank which obtains a supplier's certificate is not required to assume responsibility for compliance with § 201.7, regardless of whether other documentation or information received indicates compliance or non-compliance with such section.

(k) *Contracting and reporting under PAs and PIOs.* Banks financing transactions under letters of commitment or PAs or PIOs are not required to assume responsibility for compliance with the provisions of § 201.5 (a) (1) and (2).

(l) *Responsibilities of importers and suppliers.* Subpart B of this part (§§ 201.10 to 201.13) contains provisions concerning use of the PA or PIO number, placement of orders and delivery dates, markings of commodities, and notice to the FOA Office of Small Business. Banks financing transactions under letters of commitment or PAs or PIOs are not required to assume responsibility for compliance with this subpart.

(m) *Bank letter of commitment; expiration in letter of credit transactions.* The letter of commitment constitutes an obligation to reimburse for any drafts or documents negotiated under letters of credit prior to the date of maturity specified in the letter of commitment, even though such drafts or documents are paid after such date.

(n) *Bank letter of commitment; payment to third persons.* The right of reimbursement for a payment made by a bank under a letter of commitment will not be affected by the fact that such payment is made to the approved applicant named in the letter of commitment, or, at the request of the approved applicant, to a person other than the supplier, provided the bank has complied with the other requirements of the letter of commitment and has satisfied itself in good

*In paragraphs (c), (e), (f), (g), and (h) of this section, the phrase "documents required for reimbursement" does not include the invoice-and-contract abstract, as to which, see § 201.16 (c) (2) (ii).

faith that the person to whom it makes payment has made payment to the supplier.

(c) *Bank unable to deliver or send non-negotiable document to forwarding agent under § 201.18 (a) (3).* The right of reimbursement for payment made by a bank under a letter of commitment will not be affected by the fact that the bank is unable to deliver or send a non-negotiable shipping document or receipt to the designated person as contemplated by § 201.18 (a) (3) (i), if the bank is prevented from doing so because of any action by the United States Government or other causes beyond its control. In such case, the bank's certificate may be altered accordingly, and may state that the bank does not have a written undertaking from the designated person, but the certificate may not be altered in any other way, and the bank will continue to hold the document involved subject to the instructions of FOA, except that if it becomes possible before any such instructions are received, the bank will deliver or send such document to the designated person.

SUBPART F—WAIVER AUTHORITY AND TRANSITORY PROVISIONS

§ 201.23 *Waiver and amendment authority.* The Director may waive, withdraw, or amend at any time, or from time to time, any or all of the provisions of this part.

§ 201.24 *Continuation in effect of certain prior issuances.* Cooperating country allotments, PAs, U. S. Government agency purchase requisitions, letters of commitment to banking institutions and letters of commitment to suppliers, issued by ECA under ECA Regulation 1, as amended and by MSA under MSA Regulation 1, as amended, and by FOA under FOA Regulation 1, as amended, are reaffirmed and will continue in effect, subject to the terms and conditions thereof. The provisions of this part may be satisfied by the submission of a certificate or writing in a form: (a) Prescribed by or provided for by corresponding provisions of ECA Regulation 1, as in effect on December 29, 1951, or authorized by ECA on that date, or referring to an ECA Commodity Code number; or (b) prescribed by or provided for by corresponding provisions of MSA Regulation 1, as in effect on July 31, 1953, or authorized by MSA on that date, or referring to an MSA Commodity Code number; or prescribed by or provided for by corresponding provisions of FOA Regulation 1, as in effect on October 14, 1954, or authorized by FOA on that date, or referring to an FOA Commodity Code number. Authorizations, bank contracts, letters of guaranty to banking institutions or suppliers issued by The Institute of Inter-American Affairs, the Technical Cooperation Administration and the Foreign Operations Administration, all prior to October 15, 1954, are reaffirmed and will continue in effect subject to the terms and conditions thereof. Amendments to any of the above documents may continue to be made in accordance with the procedures in effect prior to October 15, 1954.

§ 201.25 *Transitory provision.* This revision of FOA Regulation 1 will take effect on October 15, 1954, but will not be applicable to claims for reimbursement from, or payments made to, a supplier pursuant to letters of credit issued, confirmed or advised, or payment instructions received, prior to October 15, 1954.

HAROLD E. STASSEN,
Director,

Foreign Operations Administration.

[F. R. Doc. 54-8136; Filed, Oct. 14, 1954;
8:52 a. m.]

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

Subchapter G—Enrollment and Reallotment of Indians

PART 54—ENROLLMENT OF INDIANS OF THE CABAZON, AUGUSTINE, AND TORRES-MARTINEZ BANDS OF MISSION INDIANS IN CALIFORNIA

PERSONS TO BE ENROLLED

Section 54.5 (c) is amended to read as follows:

(c) Descendants, living on June 30, 1949, of allottees.
(Sec. 10, 54 Stat. 64).

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

OCTOBER 7, 1954.

[F. R. Doc. 54-8102; Filed, Oct. 14, 1954;
8:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of the Treasury

Subchapter J—Procurement

[CGFR 54-38]

PART 116—PROCEDURES FOR PURCHASING

PART 118—CONTRACTS

PART 120—BONDS AND GUARANTIES

MISCELLANEOUS AMENDMENTS

The amendment to § 116.01-40 sets forth a definition of liquidated damages and authorizes Coast Guard contracting officers to specify a rate of liquidated damages for repairs to vessels contracts at not less than \$25.00 per day.

A new section designated § 116.01-146 prescribes a statement for use in invitations for bids when Federal Qualified Products Lists are used.

The amendment to § 116.01-169 eliminates written contracts for electricity, gas, water, sewerage, and steam services when the suppliers' rates are subject to public regulation and the annual cost is estimated to be \$2,400 or less. Existing contracts are not affected by this change.

A new section designated § 116.01-170 requires Coast Guard use of Armed Services Petroleum Purchasing Agency lubricating oil contracts.

The amendment to § 116.02-47 sets forth additional debarment of bidders procedure.

The amendment to § 116.02-112 prescribes the use of a uniform time period of 20 days for bidders' use in quoting customary and optional discounts for prompt payment.

The amendment to § 116.02-140 eliminates preparation of Standard Form 1036, Statement and Certificate of Award, at Coast Guard units subject to site or comprehensive audit by the General Accounting Office: *Provided*, That all information usually shown on that form is otherwise available in the records of the unit.

The amendments to §§ 116.02-141, 116.02-142, 116.02-143, 116.03-32, 116.03-40, 116.03-70, 116.03-71, 118.01-1, 118.01-2, 118.01-3, 118.01-4, 118.02-1, 118.02-2, 118.02-3, and 118.02-4 are editorial in nature to clarify the requirements of existing procedures.

A new section designated § 116.03-25 authorizes Coast Guard contracting officers to effect purchasing by negotiation by means of fixed price purchase orders when the aggregate amount involved in one transaction does not exceed \$5,000.

The amendment to § 118.01-17 sets forth revised contract numbering instructions for contracts of \$20,000 or less.

A new section designated § 118.02-6 requires insertion of an index or a table of contents in lengthy contracts.

The amendment to § 118.03-5 sets forth a revised "Examination of Records" contract clause.

The amendments to §§ 120.01, 120.01-2, 120.01-3, 120.02-1, 120.02-2, 120.02-3, 120.02-4, 120.02-5, and 120.02-6 and a new section designated § 120.02-7 set forth revised instructions for the use of bonds in connection with Coast Guard contracts.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F. R. 6521), the following amendments are prescribed:

1. Section 116.01-140 is amended by revising paragraphs (a) and (c) (1) to read as follows:

§ 116.01-140 *Liquidated damages—*
(a) *General.* A contract provision for liquidated damages is essentially an agreement of the contracting parties that a predetermined amount of money will be paid as damages for the breach of a contract where actual damages would be extremely difficult or impossible to ascertain. When such a provision is used in Coast Guard contracts, it is not meant to be an exclusive measure of damages, but is intended solely as compensation for delay in performance. Discretion must be used in setting the time for delivery or completion on a realistic basis considering possible delays in obtaining material or unexpected difficulties encountered in prosecuting the work due to weather or the site. Too short a time for performance causes disputes and poor contractual relations, especially when a number of extensions are later requested for reasons which might have been foreseen and when a

longer time would have well served the original need.

(c) *Construction contracts (Standard Form 23)*—(1) *Repairs to vessels.* A liquidated damage clause shall be inserted in all contracts for repairs to vessels. The rate of liquidated damages shall be fixed at not less than \$25.00 per day. When the operational schedule of a vessel requires its availability at a given date to meet patrol commitments, etc., the rate of liquidated damages should be fixed at a rate high enough to insure, insofar as possible, completion of the work and delivery of the vessel within the contract performance time.

2. Part 116 is amended by adding a new § 116.01-146 reading as follows:

§ 116.01-146 *Use of Federal Qualified Products Lists*—(a) *Contracts entered into by formal advertising.* Whenever procurement of products included in a Federal Qualified Products List is to be made pursuant to formal advertising, each solicitation of bids shall contain a statement substantially as follows: "Bids will be considered only for such products as have, prior to the bid opening date, been tested and approved for inclusion in the Federal Qualified Products List(s) (insert here the title of the applicable Federal Qualified Products List or Lists) whether or not such products have actually been so listed by that date. Manufacturers are urged to communicate with the (insert name and address of the applicable office) and arrange to have the product they propose to offer tested for qualification. (Time may not permit qualification for eligibility under this invitation, but products which qualify would be eligible under future invitations.)"

(b) *Contracts entered into by negotiation.* Reference to Federal Qualified Products Lists in connection with actions leading to contracts to be entered into by negotiation is permissible.

3. Section 116.01-169 is amended by revising paragraph (c) to read as follows:

§ 116.01-169 *Procurement of public utility services.* * * *

(c) *Coast Guard contracts*—(1) *Authority for execution.* When there is no General Services Administration contract in effect or contemplated, district commanders and commanding officers of Headquarters units may execute contracts with suppliers of utility services at points of recurring demand. Such contracts shall be limited to utilities of a routine nature, such as electricity, gas, water, sewerage, garbage and trash removal, and steam. Unusual utility service requirements, such as street cleaning and maintenance, fire and police protection services, etc., will not be procured unless specifically authorized by the Commandant.

(2) *Requirements for contracts.* When the furnishing of utility services is governed by Federal, State, or other public regulatory bodies, which fix or authorize the rates to be charged, procurement shall be effected by negotiation. Contracts falling into this category

may be executed for the period from the effective date of the contract through the end of the current fiscal year and continuing thereafter until further notice (e. g., for the period July 1, 1954 through June 30, 1955 and continuing thereafter until further notice). However, if the particular type of service is available from more than one source of supply, and is not governed by a Federal, State, or other public regulatory body, contract award shall be made on a competitive basis and the contract term shall be limited to one fiscal year.

(i) *Electricity, gas, water, sewerage, and steam services.* Contracts shall not be executed for these utility services when the supplier's rates are regulated by a Federal, State, or other public regulatory body and whenever the annual cost of the service to be procured is estimated at the time of initiation of the service to be \$2,400 or less, except as follows: whenever the supplier requires the execution of a contract or application form; whenever a connection charge is involved; whenever the negotiation and execution of a contract is deemed to be advantageous to the Government. When the above utility services are purchased without written contract, the procurement authority and the certification of the receipt of the service as billed shall be evidenced in as simplified a manner as possible. Rate schedules will not be required with each monthly billing whenever the rate schedule applicable to the service is in possession of the unit which will certify the account for payment, or the invoice or billing includes the total units of services rendered, the rate charged per unit of service and the total amount of charges. Petty cash procedure may be used whenever applicable.

(ii) *Garbage and trash disposal.* Garbage is of two classes, salable and nonsalable. The disposal of salable garbage will be by sale to the term contractor or to the highest bidder if no term contract is in effect. Disposal of unsalable garbage and trash may be made under contract or such other methods as local conditions require.

(3) *Contract forms.* Except as otherwise provided in subparagraph (2) of this paragraph, utility service contracts shall be executed on Standard Form 33 (Invitation, Bid, and Award), after deleting inapplicable portions and inserting complete information as to delivery points, meters, voltage, character of service, etc., and pertinent contract conditions. The supplier will be required to attach copies of applicable rate schedules. Changes in utility rates authorized by a Federal, State, or other regulatory body shall be made the subject of a Change Order (Form CG-3473), making reference to the date of approval of the change, and attaching copies of the new rate schedule. Copies of the change order and the new rate schedule shall be given the same distribution as the basic contract.

4. Part 116 is amended by adding a new § 116.01-170 reading as follows:

§ 116.01-170 *Purchase of lubricating oils*—(a) *General.* Coast Guard re-

quirements of the types of lubricating oils covered by contracts of the Armed Services Petroleum Purchasing Agency shall be obtained from such contracts, unless otherwise exempted by paragraph (b) of this section. The "Oil Contract Bulletin" issued for each fiscal year by the Armed Services Petroleum Purchasing Agency sets forth procedure to be followed by purchasing units in obtaining their lubricating oil requirements.

(b) *Exemptions.* Procurement under Armed Services Petroleum Purchasing Agency contracts is not required when:

(1) The maximum single order is less than the minimum quantity obtainable under the Armed Services Petroleum Purchasing Agency contracts; or

(2) Container sizes required are smaller than those available from Armed Services Petroleum Purchasing Agency contracts; or

(3) Purchase without regard to existing Armed Services Petroleum Purchasing Agency contracts is otherwise specifically authorized by the Commandant.

5. Section 116.02-47 is amended by adding new paragraphs (c) (6) and (d) (4) and by revising paragraph (e) to read as follows:

§ 116.02-47 *Debarment of bidders.*

(c) *Bases for debarment and ineligible list entry.* * * *

(6) *Regulations of the Secretary of Labor, 29 CFR 5.6 (b).* Those listed by the Comptroller General in accordance with the provisions of 29 CFR 5.6 (b), regulations of the Secretary of Labor issued pursuant to authority granted under Reorganization Plan 14 of 1950, as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or overtime pay provisions of any of the following statutes:

(i) Davis-Bacon Act, as amended, 46 Stat. 994.

(ii) Anti-Kickback Act, as amended, 48 Stat. 948, 62 Stat. 740, 63 Stat. 108, 18 U. S. C. 874, 40 U. S. C. 276b, c.

(iii) Eight Hour Law, as amended, 27 Stat. 340, 37 Stat. 726, 37 Stat. 137, as amended, 54 Stat. 884, 39 Stat. 1192, 40 U. S. C. 321 et seq.

(iv) National Housing Act, as amended, 53 Stat. 804; 12 U. S. C. 1703 et seq.

(v) Hospital Survey and Construction Act, 60 Stat. 1040; 42 U. S. C. 291 et seq.

(vi) Housing Act of 1949, 63 Stat. 413; 42 U. S. C. 1401 et seq.

(vii) School Survey and Construction Act of 1950, 64 Stat. 967 et seq.; 20 U. S. C. 251 et seq.

(d) *Treatment to be accorded firms or individuals in debarred or ineligible status.* * * *

(4) *Restrictions under statutes designated in the regulations of the Secretary of Labor, Title 29 of the Code of Federal Regulations.* A contractor listed on the basis of paragraph (c) (6) of this section or any firm, corporation, partnership, or association in which such contractor has a controlling interest, shall be ineligible for a period of three years (from the date of publication by the Comptroller General) to receive any

contracts subject to any of the statutes listed in paragraph (c) (6) of this section.

(e) *Causes and conditions applicable to determination of debarment.* Each executive agency, including the Coast Guard, is authorized to debar in the public interest a firm or individual for any of the causes and under all appropriate conditions listed below. (See paragraph (a) (3) of this section.)

(i) *Causes.* (i) Conviction for commission of a criminal offense as an incident to obtaining a contract or in an attempt to obtain a contract or in the performance thereof.

(ii) Conviction under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(iii) Violation of contract provisions, as follows, of a character which is regarded by the agency involved to be so serious as to justify debarment action: willful failure to perform in accordance with the specifications or within the time limit provided in the contract; a history of unsatisfactory performance of one or more Government contracts; violation of the contractual provision against contingent fees; acceptance of a contingent fee, which is paid in violation of contractual provision against contingent fees.

(iv) Debarment by some other executive agency.

(2) *Conditions.* (i) Debarment for any of the above causes shall be made only upon approval of the head of the executive agency (the Commandant in the case of the Coast Guard) or his duly authorized representative.

(ii) Causes (i) and (ii) of subparagraph (1) of this paragraph shall have been established by criminal conviction by a court of competent jurisdiction. In the event appeal taken from such conviction results in reversal of conviction, the debarment shall be removed if the bidder so requests. Criminal conviction for the above mentioned offenses does not necessarily require that the firm or individual be debarred, since the decision to debar is still within the discretion of the executive agency concerned. The seriousness of the offense, the civil satisfaction received by the Government or available to the Government, and all mitigating factors should be considered in making the determination to debar.

(iii) Cause (iii) of subparagraph (1) of this paragraph shall be established by evidence which the executive agency determines to be clear and convincing.

(iv) Debarment for cause (iv) of subparagraph (1) of this paragraph shall be made on the same bases as provided for whichever of causes (i) to (iii) of subparagraph (1) of this paragraph is appropriate, and may be based entirely upon the record of facts obtained by the original debarring agency, or upon a combination of additional facts with the record of facts of the original debarring agency.

(v) The debarment shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense.

(vi) The firm or individual shall be given written notice of the debarment or of the intent to debar, except in the case of cause (iv) of subparagraph (1) of this paragraph. The notice shall state as a minimum the period of the proposed debarment, including effective dates; the reasons for debarment, including a statement of the specific instances of dereliction; and shall provide reasonable opportunity for the contractor to present information for consideration upon his behalf. When the contractor does present such information he shall be given written notice of the final decision, and, if the decision provides for debarment, the period and effective dates thereof.

6. Section 116.02-112 is amended to read as follows:

§ 116.02-112 *Discounts: determination of award—(a) General.* In evaluating bids, Coast Guard contracting officers will consider only discounts for payment within 20 days. Discounts for payment within shorter periods will be disregarded. Longer periods will be evaluated as though the discounts had been quoted for the standard 20-day period. Invitations to bid will convey this basic information to all bidders. The offered discount of a successful bidder will form a part of the award, whether or not such discount was considered in the evaluation of his bid, and such discount will be taken if payment is made within the discount period. If a bid is the lowest one received from a responsible bidder solely by reason of the discount offered and it is determined that the discount cannot be taken, a full statement of the facts and circumstances and of the reasons for the action taken shall be entered upon Form CG-3477, Abstract of Bids, and on Standard Form 1036, Statement and Certificate of Award, or the record substituted for Standard Form 1036 under the conditions set forth in § 116.02-140 (c).

(b) *Amendment of Standard Form 33.* When Standard Form 33 (Nov. 1949), Invitation, Bid, and Award, is used, the following shall be made a part of the general provisions: "Paragraph 3 (a) of the Terms and Conditions of the Invitation for Bids is inapplicable and the following paragraph is substituted therefor—Bids will be evaluated only on the basis of payment within twenty (20) days. No discount offered for payment within less than twenty (20) days will be considered in evaluating bids for award. Bids offering discounts for payment within periods in excess of twenty (20) days will be evaluated for purpose of award as though they are discounts offered for payment within twenty (20) days."

7. Section 116.02-140 and the center headline immediately preceding it are amended to read as follows:

STATEMENT AND CERTIFICATE OF AWARD

§ 116.02-140 *Requirements for statement and certificate of award—(a) Applicability.* The provisions of this section and §§ 116.02-141 through 116.02-143 apply to procurement by formal advertising as distinguished from nego-

tiation. Instructions for the use of Standard Form 1036 (Statement and Certificate of Award) when procurement is effected by negotiation are contained in §§ 116.03-70 and 116.03-71.

(b) *When Standard Form 1036 is required.* Except as otherwise provided in paragraph (c) of this section, a contracting officer signing an award shall prepare and execute a Statement and Certificate of Award (Standard Form 1036) in connection with every purchase made by formal advertising. Standard Form 1036 will bear the same date as the award and will specify either that the bid was or was not the lowest bid received. If award is made on other than the lowest bid received, the contracting officer shall list on Standard Form 1036 all lower bids received and set forth his reasons for not accepting such bids. The name of the contractor shall be inserted at the top of the form above the space provided for the contract number. Standard Form 1036 must also indicate the appropriation and subhead defraying the cost of the procurement.

(c) *When Standard Form 1036 is not required.* The preparation of Standard Form 1036 (Statement and Certificate of Award) is not required by contracting officers attached to Coast Guard units the records of which are subject to site or comprehensive audit by the General Accounting Office: *Provided*, That all information usually shown thereon is otherwise available in the records of the unit. In such cases, the retained contractual document shall contain information indicating the basis on which the particular contract is issued (i. e., to the lowest bidder, etc.) and other pertinent information which can be used in selecting the supporting files to be examined during the course of the audit. When this authority is exercised, the requirements of §§ 116.02-141 and 116.02-142 for explanations to be made on Standard Form 1036 shall be made under the contracting officer's signature in other form (i. e., by statement on Form CG-3477, Abstract of Bids, by memorandum, etc.). This authority shall extend only to those units at which the contracting office and the accounting office are located in the immediate proximity of each other. It shall not extend to a district unit, or to a Headquarters unit which submits its records to the Commandant for off-site accounting purposes. Preparation of Standard Form 1036 by contracting officers of units falling into these latter categories shall be mandatory.

8. Section 116.02-141 is amended to read as follows:

§ 116.02-141 *Explanation of acceptance of other than low bid(s)—(a) Representative examples.* The following are representative examples of award on other than the lowest bid(s) received which require reporting on Standard Form 1036:

- (1) Low bid disregarded in consequence of a mistake in bid;
- (2) Low bid rejected for violation of covenant against contingent fees;
- (3) Low bid rejected on ground of unauthorized agency or undisclosed principal;

(4) Low bid rejected on ground of nonconformity to essential requirements of invitation for bids;

(5) Low bid rejected because bidder determined not to be responsible;

(6) Low bid rejected because of award on basis of factors other than price; or

(7) Low bid not accepted because of bid expiration.

(b) *Reasons for nonacceptance of lower bids.* When an award is made to other than the lowest bidder, the contracting officer shall make on Standard Form 1036 a full statement of the facts and circumstances and of the reasons for the nonacceptance of all lower bids received. When the invitation for bids does not permit alternate bids and the lowest bidder offers an alternate product, it will ordinarily be sufficient for the contracting officer to state on Standard Form 1036 that the rejected bid does not conform to the specifications in stated material respects and that the invitation for bids did not authorize alternate bids. If the alternate bid is considerably lower than the accepted bid and the alternate product is not suitable for the purpose intended, the contracting officer will so state on Standard Form 1036. If the invitation permits alternate bids and the low alternate bid is rejected, the contracting officer will specify in detail on Standard Form 1036 wherein the alternate product does not conform to the specifications. In the case of lower bids rejected on the ground that the bidders are determined not to be responsible, the contracting officer will make the determination of nonresponsibility on Standard Form 1036.

9. Section 116.02-142 is amended to read as follows:

§ 116.02-142 *Additional statements to be made by contracting officer—(a) Assistance to small business concerns and labor surplus areas.* In each case where an award is made in favor of a small business concern or is placed in a labor surplus area, the circumstances under which the award was made shall be briefly recited on Standard Form 1036 (Statement and Certificate of Award), together with a statement that the award will further the Congressional policy with respect to small business expressed in section 2 (b) of the Armed Services Procurement Act of 1947 or will further the policy with respect to labor surplus areas, or both, as the case may be.

(b) *Mistakes in bids.* Where an award involves a mistake in bid and the matter has been resolved by administrative action, Standard Form 1036 (Statement and Certificate of Award) will be accompanied by a copy of the resulting instructions as received in the premises, together with other pertinent documents supporting the case. If an award involves a mistake in bid on which the Comptroller General has rendered a decision, Standard Form 1036 will contain a citation by number and date of the decision or a copy thereof securely attached to the form.

10. Section 116.02-143 is amended to read as follows:

§ 116.02-143 *Distribution of statement and certificate of award—(a)*

Numbered contracts. The original Standard Form 1036 (Statement and Certificate of Award) shall be attached to the original contract and forwarded to the cognizant accounting office for filing in accordance with § 118.02-10 of this subchapter. A copy shall be retained with the file copy of the contract at the contracting office.

(b) *Unnumbered contracts.* The original and one copy of Standard Form 1036 (Statement and Certificate of Award) shall be attached to the original and one copy of the accepted bid and forwarded to the accounting office which will effect settlement of the contractor's account in accordance with § 118.02-11 of this subchapter. A copy shall be retained with the file copy of the bid at the contracting office.

(c) *When Standard Form 1036 is not required.* When preparation of Standard Form 1036 (Statement and Certificate of Award) has been waived, the contract documents submitted to the accounting office pursuant to paragraphs (a) and (b) of this section shall contain all pertinent information required by § 116.02-140 to effect prompt settlement and subsequent audit of the contractor's accounts.

11. Part 116 is amended by adding a new § 116.03-25 reading as follows:

§ 116.03-25 *Purchase orders not in excess of \$5,000—(a) Authority.* Except as the authority of individual units may be specifically limited by § 116.01-6, contracting officers designated in §§ 116.01-23 and 116.01-24 are authorized to effect purchasing by negotiation by means of fixed price purchase orders, when the aggregate amount involved in any one transaction does not exceed \$5,000 and does not require the use of a contract form. In determining the aggregate amount involved, there must be included all supplies and services which properly would be grouped together in a single transaction and which would be included in a single invitation for bids if the procurement were being effected by formal advertising. Requirements aggregating more than \$5,000 will not be broken down into several purchases which are less than \$5,000 merely for the purpose of permitting procurement by this method.

(b) *Competition.* Reasonable solicitation of quotations from qualified and eligible suppliers will be secured to assure that the procurement is made to the advantage of the Government, price and other factors considered, including the administrative cost of the purchase. Quotations estimated to exceed \$1,000 generally will be solicited by issuing Request for Quotation (Form CG-2982) in accordance with § 116.03-21. However, when appropriate, quotations may be obtained by letter, telegram, telephone, or from suppliers' catalogs. In soliciting quotations, an effort shall be made to obtain prompt payment discounts on the basis of a minimum payment period of 20 days (see § 116.02-112).

(c) *Purchase order forms.* Contracting officers designated in §§ 116.01-23 and 116.01-24 will prepare and issue purchase orders over \$1,000 and not in

excess of \$5,000 on Form CG-2557 (Purchase Order). If the purchase is less than \$1,000, the order may be issued either on Form CG-2557 (Purchase Order) or Standard Form 44 (U. S. Government Purchase Order-Invoice-Voucher), subject to the provisions of § 118.02-13 of this subchapter.

12. Section 116.03-32 *Public exigency* (sec. 2 (c) (2)) is amended by revising the last sentence of the section to read as follows: "Every contract negotiated under the authority of this section shall be accompanied by a statement signed by the contracting officer justifying the procurement."

13. Section 116.03-40 is amended by revising paragraph (b) to read as follows:

§ 116.03-40 *Supplies or services for which it is impracticable to secure competition by formal advertising* (sec. 2 (c) (10)). * * *

(b) Every contract negotiated under the authority of this section shall be accompanied by a statement signed by the contracting officer justifying the procurement, unless the contract is with a supplier of public utility services whose rates are regulated by a public regulatory body.

14. Section 116.03-70 and the center headnote immediately preceding it are amended to read as follows:

STATEMENT AND CERTIFICATE OF AWARD

§ 116.03-70 *Requirements for statement and certificate of award—(a) Applicability.* The provisions of this section and § 116.03-71 apply to procurement by negotiation as distinguished from formal advertising. Instructions for the use of Standard Form 1036 (Statement and Certificate of Award) when procurement is effected by formal advertising are contained in §§ 116.02-140 through 116.02-143.

(b) *Elimination of Standard Form 1036 during national emergency.* During the period of the present national emergency, Standard Form 1036 (Statement and Certificate of Award) is not required in connection with negotiated contracts. However, Standard Form 1036 may be used for preparation of the contracting officer's justifications required by § 116.03-71.

15. Section 116.03-71 is amended to read as follows:

§ 116.03-71 *Negotiated contracts requiring justification—(a) Contracts to be justified.* Except for contracts with suppliers of utility services whose rates are regulated by a Federal, State, or other public regulatory body, every contract that is negotiated under the authority of section 2 (c) (2) or section 2 (c) (10) of the Armed Services Procurement Act of 1947 (see §§ 116.03-32 and 116.03-40) shall be accompanied by a signed statement of the contracting officer justifying the use of these exceptions. In the event an award is made to a concern other than the one submitting the lowest quotation, the records of the unit shall contain a statement from the contracting officer setting forth his reasons for not accepting the lowest quotation.

(b) *Distribution of justifications.* Justifications prepared by contracting officers in accordance with paragraph (a) of this section shall be distributed and filed in the same manner prescribed for Standard Form 1036 (Statement and Certificate of Award) in § 118.02-143.

16. Section 118.01-1 is amended to read as follows:

§ 118.01-1 *Forms of agreement.* Coast Guard contractual obligations shall be recorded on separate award type contracts, combination award type contracts, or purchase orders in accordance with § 118.03-25 of this subchapter and §§ 118.02-1, and 118.02-2.

17. Section 118.01-2 *Separate award type contracts* is hereby revoked.

18. Section 118.01-3 *Combination type contracts* is hereby revoked.

19. Section 118.01-4 *Purchase orders (informal contracts)* is hereby revoked.

20. Section 118.01-17 is revised to read as follows:

§ 118.01-17 *Contracts required to be numbered—(a) General.* The General Accounting Office requires that the contracts designated in paragraph (b) of this section shall be numbered with approved letter symbols and serial numbers for identification, audit, and filing purposes. Documents coming within the purview of this paragraph include purchase orders, contracts, letter orders, letters of intent, leases, easements, proposal and acceptance documents or other documents evidencing in whole or in part an agreement between the parties, which involve the payment of appropriated funds or collection of funds for credit to the Treasurer of the United States, and hereinafter referred to as "contracts." Small purchase agreements utilizing Standard Form 44 (U. S. Government Purchase Order-Invoice-Voucher) do not come within the purview of this section. When documents of the above description do not require numbering in the uniform contract ("Teg") series, they shall be identified by other means (i. e., purchase order number, invitation number, etc.) and distributed in accordance with § 118.02-11.

(b) *Mandatory numbering requirements.* The following contracts shall be numbered in accordance with the uniform contract numbering system prescribed in § 118.02-4 and distributed in accordance with § 118.02-10. In case of doubt as to whether the amount to be paid (or collected) under a contract is more or less than \$20,000 or whether more than one payment (or collection) may be necessary, the contract shall be numbered. Likewise, where later determination is made that the amount to be paid or collected equals \$20,000 or more, a number must also be assigned to such contract.

(1) All contracts involving the payment of \$20,000 or more on a single payment voucher.

(2) All multiple payment contracts, regardless of amount. "Multiple payment contracts" include term contracts, leases, open-end contracts, and contracts

involving partial payments or more than one payment.

(3) All sales contracts involving the collection of \$20,000 or more.

(4) All multiple delivery sales contracts, regardless of amount.

21. Section 118.02-1 is amended to read as follows:

§ 118.02-1 *Separate award type contracts—(a) General.* The separate award type, or "long form," contract contemplates the reduction of an agreement to a single written document signed by both parties at the end thereof, which is drawn and prepared after acceptance of bids or quotations. Bonds, drawings, specifications, conditions, and/or other relevant papers are incorporated as necessary.

(b) *Authorized forms.* Separate award type contracts used by Coast Guard contracting officers shall be limited to the following, unless otherwise specifically authorized by the Commandant:

(1) *Standard Form 2, Lease.* Leases of real property.

(2) *Standard Form 23, Construction Contract.* Construction and repair of vessels, aircraft, and real property (as defined in § 118.03-3) for amounts of \$2,000 or more.

(3) *Standard Form 40, Contract for Telephone Service.* Telephone facilities and service.

(4) *Coast Guard Contract for Professional Services.* Negotiated contracts for architect-engineering professional services.

22. Section 118.02-2 is amended to read as follows:

§ 118.02-2 *Combination type contracts—(a) General.* A combination type, or "short form," contract consists of the invitation for bids, the bid, and the award, contained in one instrument. Bonds, drawings, specifications, conditions, and/or other relevant papers are incorporated as necessary. Standard Form 33 (Invitation, Bid, and Award) is the only combination type contract used by the Coast Guard.

(b) *Authorized use.* Standard Form 33 (Invitation, Bid, and Award) shall be used for all formally advertised supply contracts. It may also be used for the execution of contracts for the following resulting from either formal advertising or negotiation:

(1) Nonpersonal services.
(2) Utility services.
(3) Solid fuels.
(4) Construction and repair of vessels, aircraft, and real property (as defined in § 118.03-3), provided the contract does not exceed \$2,000 and does not require the use of bonds.

23. Section 118.02-3 *Purchase orders (informal contracts)* is hereby revoked.

24. Section 118.02-4 is amended to read as follows:

§ 118.02-4 *Uniform contract numbering system—(a) General.* Section 118.01-17 designates Coast Guard procurement (and sales) documents which require assignment of contract numbers in the uniform series prescribed by the

General Accounting Office. Contract numbers shall be assigned only by the Commandant and allotment administrative officers in the field to whom contracting authority has been delegated in accordance with § 116.01-24 of this subchapter. See also § 118.01-15 re control of contract numbers.

(b) *Assignment of contract numbers.* Contract numbers, when required, will be placed in the space provided therefor on the printed contract form, or, if no such space is provided, in the upper right-hand corner separate from all other information. The contract number shall consist of an identification symbol followed by a hyphen and the serial number assigned the particular procurement (or sale). Example: T12eg-8.

(1) The capital letter "T" shall preface each contract number to identify the Treasury Department.

(2) When a contract number is assigned by a field unit, the allotment symbol of the unit (district office or Headquarters unit) shall be shown immediately after the letter "T"; thus, the numeral "12" used in the above example identifies the 12th Coast Guard District.

(3) The small letters "cg" shall then be inserted, identifying the document as a Coast Guard contract.

(4) The letters "cg" are followed by a hyphen and the serial number of the contract; in the example, "8" identifies the eighth contract assigned a number by the 12th Coast Guard District. See paragraph (c) of this section.

(c) *Number series.* Contracts shall be numbered serially in unbroken sequence by each unit authorized to assign contract numbers, beginning with number 1 and going through 99,999 without regard to fiscal year or type of contract. When the serial number reaches 99,999, a new series will be used beginning with the number 1 and adding the capital letter "A" as a suffix; the next series will use the capital letter "B" as a suffix, etc. Supplemental agreements, renewals of leases, and change orders, will bear the same identification as the original contract.

25. Part 118 is amended by adding a new § 118.02-6 to read as follows:

§ 118.02-6 *Contract indexes.* Lengthy contracts shall contain an index or table of contents for the information and assistance of contractors, technical personnel, and others concerned in locating specific contract clauses, drawings, etc. Where practicable, the index or table of contents should follow the cover sheet and preface the actual documents comprising the contract.

26. Section 118.03-5 is amended by revising paragraph (i) (2) to read as follows:

§ 118.03-5 *Special contract clauses.*

• • •

(i) *Examination of records.* • • •

(2) *Contractor-subcontractor transactions.* The following provision will be made a part of a subcontract (or contractor's purchase order) issued by a contractor when the subcontract (or contractor's purchase order) is in an amount, or by subsequent change

order(s) is increased to an amount, in excess of \$1,000 and does not cover the rendering of public utility services at rates established for uniform applicability to the general public:

The contractor further agrees to include in all his subcontracts hereunder which may hereafter be made, a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

27. Section 120.01-1 is amended to read as follows:

§ 120.01-1 *Purpose of bid guaranties.* The purpose of a bid guaranty (commonly referred to as a "bid bond") is to assure that the bidder will execute a contract in the event his bid is accepted. Bid guaranties may be required when, and only when, the solicitation of bids for a contract to be entered into as a result of formal advertising specifies that the contract is to be supported by a performance bond or by performance and payment bonds (see §§ 120.02-1 through 120.02-7). When the contracting officer deems a bid guaranty necessary for the protection of the Government, it shall be in the penal sum of 5 percent of the bid price.

28. Section 120.01-2 is amended to read as follows:

§ 120.01-2 *Form of guaranty—(a) Authorized bond forms.* Standard bid bond forms authorized for Coast Guard use are listed in subparagraphs (1), (2) and (3) of this paragraph. Detailed instructions for preparation, corporate certifications, surety requirements, etc., are set forth on the reverse of each form. Under most conditions, bid guaranties will be limited to Standard Form 24 (Bid Bond). However, bid guaranties may be furnished in the form of securities (see paragraph (b) of this section), or by an annual bid bond (Standard Form 34) submitted on a fiscal year basis.

(1) *Standard Form 24, Bid Bond.* This form shall be used for construction work or the furnishing of supplies or services whenever a bid bond is required, except as indicated in subparagraph (2) of this paragraph.

(2) *Standard Form 34, Annual Bid Bond.* This form may be used in connection with the procurement of supplies or services in lieu of Standard Form 24 (Bid Bond); it may not be used for bids on construction contracts. An annual bid bond shall be limited to a specific fiscal year. Annual bid bonds shall be forwarded to the Commandant for examination and approval, after which they will be returned to the contracting officer for filing.

(3) *Standard Form 28, Affidavit of Individual Surety.* This form shall be completed and attached to Standard

Form 24 (Bid Bond) or Standard Form 34 (Annual Bid Bond) whenever the sureties on those bonds are individuals.

(b) *Options in lieu of sureties.* While bid guaranties connected with Coast Guard invitations for bids normally will be furnished on the standard forms indicated in paragraph (a) of this section, the bidder may deposit securities in lieu of furnishing corporate or individual sureties on bonds. When securities are furnished by the bidder, the procedure set forth in §§ 120.01-3 (b) and 120.02 (b) shall be followed.

29. Section 120.01-3 is amended to read as follows:

§ 120.01-3 *Custody and return of bid guaranties—(a) Bid bonds.* Standard Form 24 (Bid Bond) forms a part of the pertinent bid and shall be filed with the original bid. When an annual bid bond (Standard Form 34) is used, the pertinent bid shall be cross-referenced to the file containing the annual bid bond. Affidavits of individual sureties (Standard Form 28) shall be filed with the applicable bid bond (Standard Form 24 or Standard Form 34). (See paragraph (b) of this section regarding special penal bonds for security furnished in the form of United States bonds or notes.)

(b) *Securities—(1) Return to unsuccessful bidders.* If determination of contract award can be made at the close of bid openings, the contracting officer shall return by registered mail (return receipt requested), or person-to-person delivery (receipt required) if the bidders or their authorized representatives are present, all bid guaranties of unsuccessful bidders. The guaranties of unsuccessful bidders will be returned in the form in which received, except for cash to be returned to a bidder who is not present (either in person or by an authorized representative) and cannot be contacted for person-to-person delivery. In the latter case, the contracting officer will deliver the cash guaranty to the collection clerk for deposit and refund to the bidder on a Public Voucher for Refunds (Standard Form 1047). Likewise, if determination of award cannot be made at the close of bid openings, cash and securities made payable to the Treasurer of the United States shall be deposited with the collection clerk and refunded to the unsuccessful bidder on Standard Form 1047 when the award is made.

(2) *Disposition of securities furnished by successful bidders—(i) United States bonds and notes.* When United States bonds or notes are accepted as security in lieu of surety or sureties, the bidder will be required to execute a locally prepared penal bond and a power of attorney and agreement for collection or sale of the securities in event of default, in the format prescribed by Treasury Department Circular No. 154 (February 6, 1935). The penal bond form shall be filed with the original bid. The contracting officer may hold United States bonds and notes received as a bid guaranty, at his own risk, in secure storage (i. e., fire-proof, combination lock safe) until the contract has been awarded and the related performance and/or payment

bonds are received. Upon receipt of the surety bond(s), the United States bonds and notes, and the accompanying power of attorney and agreement, shall be returned to the successful bidder or his authorized representative by person-to-person delivery (receipt required) or registered mail (return receipt requested) without application from the bidder. If the bidder so requests, the United States bonds or notes may be retained and applied as part of the requisite surety bond(s) on his contract, in accordance with § 120.02-7 (b) (1).

(ii) *Certified or cashier's checks, bank drafts, money orders, or currency.* Security accepted by the contracting officer in the form of a certified or cashier's check, bank draft, or money order made payable to the "Treasurer of the United States," or currency, shall be turned over to the collection clerk for deposit. Upon receipt of the surety bond(s), the bid guaranty held in the above deposit account will be refunded to the bidder on a Public Voucher for Refunds (Standard Form 1047), without application from the bidder. If the bidder so requests, the bid guaranty may be retained and applied as part of the requisite surety bond(s) on his contract, in accordance with § 120.02-7 (b) (1).

(3) *Record of disposition of bid guaranties.* The contracting officer shall maintain a record of the receipt and disposition of all bid guaranties on Form CG-3477 (Abstract of Bids) or by a memorandum attached to the related bids.

30. Section 120.02-1 is amended to read as follows:

§ 120.02-1 *Purpose of performance and payment bonds—(a) Performance bonds.* A performance bond is a legal document executed in connection with a contract, for the purpose of providing financial responsibility for fulfillment of all the undertakings, covenants, terms, conditions, and agreements contained in the contract. By the terms of such a bond the contractor, as principal, and a corporate bonding company (or in rare instances an individual), as surety, are obligated to the United States up to a maximum dollar amount, called the penal sum of the bond, to defray damages caused by improper performance.

(b) *Payment bonds.* A payment bond is an obligation, similar to the performance bond, which secures the payment of all persons who supply labor and material in the prosecution of the work provided for in the contract.

31. Section 120.02-2 is amended to read as follows:

§ 120.02-2 *When bonds are required—(a) Construction contracts.* The act of August 24, 1935, 49 Stat. 793, as amended (40 U. S. C. 270a-270e), known as the "Miller Act," requires performance and payment bonds for all contracts exceeding \$2,000 in amount for the construction, alteration, or repair of any public building or public work of the United States. "Public work" shall be construed to include the construction, alteration, or repair of vessels, aircraft, aids to navigation, shore structures, bridges, roads, etc., and dredging.

(b) *Supply contracts.* Performance bonds may be required under supply contracts when the contracting officer deems them necessary to protect the interests of the Government. However, performance bonds are not a usual adjunct to Coast Guard supply contracts unless the amount exceeds \$25,000. Payment bonds may also be required to guarantee payment to those who supply the prime contractor with labor and materials necessary to the performance of the contract.

(c) *Waiver of bond requirements.* Contracting officers are authorized to waive the requirements of performance and payment bonds for work under contracts performed in foreign countries if they find that it is impracticable for the contractors to furnish such bonds.

32. Section 120.02-3 is amended to read as follows:

§ 120.02-3 *Penal sum of performance bonds—(a) Construction contracts.* Performance bonds shall be required in the penal sum fixed for the payment bonds. (See § 120.02-4.)

(b) *Supply contracts.* Performance bonds may be required by the contracting officer in such amount as he shall deem adequate to protect the Government.

33. Section 120.02-4 is amended to read as follows:

§ 120.02-4 *Penal sum of payment bonds—(a) Construction contracts.* Payment bonds prescribed by § 120.02-2 (a) shall be required in the following sums: Amount of Contract and Penal Sum of Bond

- (1) \$1,000,000 or less: 50 percent of the contract price.
- (2) Over \$1,000,000 but less than \$5,000,000: 40 percent of the contract price.
- (3) Over \$5,000,000: \$2,500,000.

(b) *Supply contracts.* If the contracting officer deems a payment bond necessary in connection with a supply contract, the penal sum of the bond should be fixed under the same criteria prescribed for construction contracts in paragraph (a) of this section.

34. Section 120.02-5 is amended to read as follows:

§ 120.02-5 *Standard bond forms—(a) General.* Standard performance and payment bond forms authorized for Coast Guard use are listed in paragraph (b) of this section. Detailed instructions for preparation, corporate certification, surety requirements, etc., are set forth on the reverse of each form. Under most conditions, performance and payment bonds used with Coast Guard contracts will be limited to Standard Form 25 (Performance Bond) and Standard Form 25A (Payment Bond). However, other combinations of forms or individual forms shown in paragraph (b) may be furnished for use under specific contracts, or during a specific fiscal year in the case of an annual performance bond (Standard Form 35).

(b) *Authorized forms—(1) Standard Form 25, Performance Bond.* This form shall be used for construction work or the furnishing of supplies or services, whenever a performance bond is required, except as follows:

(i) *Optional use of annual performance bond.* Standard Form 35 (Annual Performance Bond) may be used in connection with the procurement of supplies or services in lieu of Standard Form 25 (Performance Bond); it may not be used for construction contracts. When Standard Form 35 has been used and has been completely obligated in an amount equal to the penal sum thereof, an additional bond shall be obtained. An annual performance bond shall be limited to a specific fiscal year.

(ii) *When corporate co-sureties used.* See subparagraph (3) of this paragraph.

(2) *Standard Form 25A, Payment Bond.* This form, for the protection of persons supplying labor and material, shall be used whenever a payment bond is required, except when corporate co-sureties are used (see subparagraph (4) of this paragraph).

(3) *Standard Form 27, Performance Bond (Corporate Co-Surety Form).* This form shall be used for construction work or the furnishing of supplies or services whenever a performance bond is required and two or more corporate sureties, each limiting its liability to a portion only of the total penalty, are to execute the bond.

(4) *Standard Form 27A, Payment Bond (Corporate Co-Surety Form).* This form, for the protection of persons supplying labor and material, shall be used whenever a payment bond is required and two or more corporate sureties, each limiting its liability to a portion only of the total penalty, are to execute the bond.

(5) *Standard Form 27B, Continuation Sheet (Corporate Co-Surety Bond).* This form shall be attached to Standard Form 27 (Performance Bond—Corporate Co-Surety Form) and Standard Form 27A (Payment Bond—Corporate Co-Surety Form) whenever more than 11 sureties are to execute those bonds.

(6) *Standard Form 28, Affidavit of Individual Surety.* This form shall be completed and attached to Standard Form 25 (Performance Bond), Standard Form 25A (Payment Bond), or Standard Form 35 (Annual Performance Bond) whenever the sureties on those bonds are individuals.

35. Section 120.02-6 is amended to read as follows:

§ 120.02-6 *Contracting officers authorized to examine and approve bonds—*

(a) *General.* Upon receipt of a bond given in support of a contract, the contracting officer shall ascertain that the bond tendered is in the penal sum required and that it properly describes the contract. The contracting officer shall exercise caution to ascertain that the attorney-in-fact who executes a bond furnishes evidence to support his authority to execute the obligation. It is not necessary to refer the bond to the Commandant for approval prior to execution of the contract: *Provided*, That the contracting officer makes the required examination as to sufficiency of amount, contract description, and authority of signature. When the contract has been executed, the bonds shall be forwarded to the Commandant under letter of transmittal for reference to the Section

of Surety Bonds, Treasury Department. After examination and approval by the Section of Surety Bonds, the bonds will be returned to the contracting officer by the Commandant for filing with the original contract.

(b) *Annual performance bonds.* Annual performance bonds (Standard Form 35) shall be submitted to the Commandant for examination and approval at the time tendered. After approval has been obtained, the original bond will be returned to the contracting officer for filing. The contracting officer shall maintain an accurate record of all contractual obligations against the penal sum of such bonds to avoid overdraft thereon.

36. Part 120 is amended by adding a new § 120.02-7 to read as follows:

§ 120.02-7 *Sureties on bonds—(a) General requirements of sureties.* Every bond required or used in connection with Coast Guard contracts shall be supported by good and sufficient surety (corporate or individual).

(1) *Corporate sureties.* The surety on bonds tendered in support of Coast Guard contracts may be any corporation authorized by the Secretary of the Treasury to act as a surety.

(2) *Individual sureties.* Two responsible individuals may be used as sureties on a bond in lieu of a corporate surety. A firm, as such, will not be accepted as a surety, nor a partner for copartners or for a firm of which he is a member. Stockholders of a corporate principal may be accepted as sureties provided their qualifications as such are independent of their stock holdings therein. Sureties, if individuals, shall be citizens of the United States, except that sureties on bonds executed in any foreign country, in the Canal Zone, Puerto Rico, Hawaii, Alaska, Guam, or any possession of the United States, for the performance of contracts entered into in those places, need not be citizens of the United States, but if not citizens of the United States shall be domiciled in the place where the contract is to be performed.

(b) *Options in lieu of sureties.* While bonds connected with Coast Guard contracts normally will be furnished on the standard forms listed in § 120.02-5, any one or more of the types of security indicated in subparagraphs (1) and (2) of this paragraph may be deposited by the contractor in lieu of furnishing corporate or individual sureties on bonds.

(1) *United States bonds or notes—(i) General.* In accordance with the provisions of the act of February 24, 1919, as amended (6 U. S. C. 15) and Treasury Department Circular No. 154 (February 6, 1935) (31 CFR Part 225), any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of depositing United States bonds or notes in an amount equal at their par value to the penal sum of the bond, together with an agreement authorizing the collection or sale of such United States bonds or notes in the event of default on the penal bond. Treasury Department Circular No. 154 (31 CFR Part 225) contains detailed instructions and specimen forms (i. e., receipts for securities, powers of attor-

ney and agreements for the sale—assignment—transfer of securities, and penal bonds applicable to securities) for the acceptance, deposit, and return or other disposition of bonds, notes or other obligations issued or guaranteed by the United States as security in lieu of surety or sureties on penal bonds. For the purpose of this paragraph, contracting officers are "bond-approving officers" and shall comply with the provisions of Treasury Department Circular No. 154 (31 CFR Part 225).

(ii) *Disposition of bonds or notes by contracting officers.* United States bonds or notes received by contracting officers as security, and such other bonds or notes as may be substituted therefor from time to time as security, shall be deposited by the contracting officer with the Treasurer of the United States, a Federal Reserve bank having the requisite facilities, or other depository duly designated for that purpose by the Secretary of the Treasury, for safekeeping. All bonds or notes received in the District of Columbia shall be deposited with the Treasurer of the United States. Depositories of public moneys are not authorized to act as depositories for bonds or notes accepted as security for the performance of a penal bond, unless specifically designated for that purpose by the Secretary of the Treasury. As soon as security for the performance of the penal bond is no longer necessary, the bonds or notes deposited in lieu of surety or sureties on such penal bond, together with the power of attorney and agreement accompanying such bonds or notes, shall be returned to the contractor by the contracting officer, without application therefor from the contractor. Transmittal of bonds or notes to and from contractors or depositories shall be via hand-to-hand delivery (receipt required) or registered mail (return receipt requested). Bonds or notes accepted by a contracting officer shall be kept in secure storage (i. e., fireproof, combination lock safe) pending deposit or return to the contractor.

(2) *Certified or cashier's checks, bank drafts, money orders, or currency—(i) General.* Any person required to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of depositing a certified or cashier's check, a bank draft, a Post Office money order, or currency, in an amount equal to the penal sum of the bond: *Provided*, That the penal sum of the bond is not in excess of \$50,000. Certified or cashier's checks, bank drafts, or Post Office money orders shall be drawn to the order of the "Treasurer of the United States."

(ii) *Disposition of funds by contracting officers.* Any security accepted by the contracting officer in the form of certified or cashier's checks, bank drafts, money orders, or currency, shall be delivered promptly to the collection clerk for deposit. Collection Receipt (Form CG-2688), fully describing the purpose of the deposit, shall be furnished the contractor by the collection clerk. As soon as the contractor's bonding obligation has ceased, the contracting officer shall initiate action for the refund of the amount of the security to the con-

tractor without application from that party.

(c) *Consent of surety.* A consent of surety is an instrument by which the surety on a bond or bonds supporting a contract consents to a supplemental agreement which goes beyond the scope of the contract, or a change order in excess of \$25,000, and agrees that the bond or bonds previously given to support the basic contract shall apply to the contract as modified. When the consent of a surety is required, it should be obtained in writing in substantially the form shown in subparagraph (1) or (2) of this paragraph, titled "Consent of Surety," dated, and completed in the same manner as the basic bond as to signatures, seals, and attests.

(1) *Consent of surety to a modification providing for an increase in the penal sums of bonds previously given.*

Consent of surety is hereby given to the foregoing contract modification, and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby. The principal and surety further agree that on and after the execution of this consent, the penalty of the aforementioned performance bond or bonds is hereby increased by _____ dollars, and the penalty of the aforementioned payment bond or bonds is hereby increased by _____ dollars.

(2) *Consent of surety without providing for an increase in the penal sums of bonds previously given.*

Consent of Surety is hereby given to the foregoing contract modification, and the surety agrees that its bond or bonds shall apply and extend to the contract as modified or amended thereby.

(62 Stat. 21; 41 U. S. C. 151-161)

Dated: October 8, 1954.

[SEAL] A. C. RICHMOND,
Vice Admiral, U. S. Coast Guard,
Commandant.

[F. R. Doc. 54-8125; Filed, Oct. 14, 1954;
8:50 a. m.]

TITLE 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 1—GENERAL REGULATIONS COMMERCIAL AUTOMOBILES AND BUSES

Paragraph (a) of § 1.36 *Commercial automobiles and busses* is amended by deleting the language in parentheses after the words "Grand Canyon," and before the word "Zion," in the first sentence, and inserting the following language: "(except the service road branch of the south entrance road serving Park headquarters and Grand Canyon Village, including the portion of the south entrance road which lies between the Park boundary and said service road)."

(Sec. 3, 39 Stat. 535, as amended; 16 U. S. C. 3)

Issued this 8th day of October 1954.

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

[F. R. Doc. 54-8101; Filed, Oct. 14, 1954;
8:46 a. m.]

TITLE 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 108—FEDERAL ASSISTANCE BEGINNING JULY 1, 1954, IN THE CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Part 108 is added to 45 CFR, Subtitle B, Chapter I, and, among other things, establishes regulations for the filing and processing of applications for Federal Grants for school construction under Title III of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005); establishes a cut-off date for filing such applications and provides for priority indices to establish the order of approval of applications and of making payments from funds available on the cut-off date.

Part 108 reads as follows:

Subpart A—Filing and Processing of Complete Applications

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| Sec. | Definitions. |
| 108.1 | Procedure if funds are inadequate to make all payments. |
| 108.2 | Determination of priority indices for applications under section 305. |
| 108.3 | Determination of available and usable school facilities. |
| 108.4 | Criteria for waiver under section 305 (e), Title III of the act. |
| 108.5 | School facilities for children whose membership is of temporary duration only. |
| 108.6 | Certification of payments. |
| 108.7 | Additional payments under section 308 of the act. |
| 108.8 | Priority and approval of applications; conditioned upon readiness to proceed with construction. |
| 108.9 | Preceding provisions not exhaustive of jurisdiction of the Commissioner. |
| 108.10 | |

Subpart B—Establishment of Deadline for Filing Applications

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| 108.20 | First deadline for applications during fiscal year 1955. |
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AUTHORITY: §§ 108.1 to 108.21 issued under sec. 208, 64 Stat. 975; 20 U. S. C. 278. Interpret or apply secs. 210, 301-311, 64 Stat. 976, secs. 1, 2, 67 Stat. 522, secs. 1-8, 68 Stat. 1005; 20 U. S. C. 280, 291-301.

SUBPART A—FILING AND PROCESSING OF COMPLETE APPLICATIONS

§ 108.1 *Definitions.* All terms used in this part which are defined in Public Law 815, 81st Congress (64 Stat. 967), as amended by Public Law 246, 83d Congress (67 Stat. 522), and Public Law 731, 83d Congress (68 Stat. 1005), and not defined in this section shall have the meaning given to them in Public Law 815 as amended. As used in this part, for purposes of this part and determinations under the act as hereinafter defined, the following terms shall have the meaning indicated in paragraphs (a) to (q) of this section:

(a) *Act.* "The act" means title III of Public Law 815, 81st Congress (64 Stat. 967), as added by Public Law 246, 83d Congress (67 Stat. 522), and as amended by Public Law 731, 83d Congress (68 Stat. 1005), and such provisions of titles I and II of Public Law 815 as

are made applicable to title III by Public Law 246.

(b) *Title III.* "Title III" means title III of Public Law 815, 81st Congress, as added by Public Law 246, 83d Congress, and as amended by Public Law 731, 83d Congress, and such provisions of titles I and II of Public Law 815 as are made applicable to it by Public Law 246.

(c) *Commissioner.* "Commissioner" means the Commissioner of Education, Department of Health, Education, and Welfare or his delegatee.

(d) *Local educational agency.* "Local educational agency" means a board of education or other legally constituted local school authority (including, where applicable, a State agency which directly operates and maintains facilities for providing free public education) having exclusive administrative control and direction of free public education, or some phase thereof, in a county, township, independent, or other school district located within a State. If the local educational agency so defined does not have responsibility for providing school facilities and such responsibility is vested in a State agency, the term shall include such State agency together with the agency having exclusive administrative control and direction of other phases of free public education.

(e) *Free public education.* "Free public education" means education which is provided at public expense, under public supervision and direction, and which is provided as elementary or secondary school education in the applicable State. Elementary education may include kindergarten education meeting the above criteria.

(f) *Applicant.* An "applicant" is a local educational agency which has filed a complete application for assistance in school construction under the act and this part.

(g) *Complete application.* Where an applicant submits only one project by a filing date, the "complete application" at that time consists of both Part I (Maximum Grant) and Part II (Project) of the application Form RSF-2 prescribed by the Commissioner for use under this act, properly completed and executed, together with all documents, amendments, and communications in support thereof. Where applicant submits more than one project by a filing date, the Part I form and all Part II forms, properly executed and completed, together with all documents, amendments, and communications in support thereof on file at that time, shall be considered as the "complete application." Where more than one Part II application is submitted by an applicant, the applicant shall indicate the order in which its project applications are to be considered by the Commissioner. Only applications meeting the conditions for approval under title III (other than section 305 (b) (3)) and this part shall be considered complete applications under title III.

(h) *Project application.* "Project application" means Form RSF-2, Part II, properly completed and executed, making application for Federal assistance for constructing school facilities under title III.

(i) *Filing of applications.* An application will not be deemed to be "filed" unless all necessary parts of the complete application, bearing the required certifications and verifications by the State educational agency, are received by the Commissioner, or enclosed in a cover addressed to the Commissioner and postmarked, on or before the applicable filing date as may be established by Subpart B of this part.

(j) *Minimum school facilities.* "Minimum school facilities" means those instructional and auxiliary rooms (and initial equipment), exclusive of single purpose auditoriums, single purpose gymnasiums and any built-in spectator space, necessary to operate a program of free public education for the school members of the applicant at normal capacity in accordance with the laws and customs of the State.

(k) *Available and usable school facilities.* "Available and usable school facilities" means those facilities containing pupil stations counted in ascertaining children who are "unhoused" or "without minimum school facilities."

(l) *Normal capacity.* The "normal capacity" of a school room is the number of pupil stations which the room accommodates under ordinary conditions in accordance with the laws and customs of the State governing free public education, provided that where kindergartens may be conducted on a two-session-per-day basis the number of pupil stations of the rooms used for that purpose shall be doubled in determining kindergarten needs.

(m) *Children who are unhoused or without minimum school facilities.* Children who are "unhoused" or "without minimum school facilities" are those children in excess of the normal capacity of available and usable minimum school facilities.

(n) *Membership.* Unless governed by State law or State regulation, a pupil is a "member" of a class or school from the date he presents himself at school and is placed on the current roll until he permanently leaves the class or school for one of the causes recognized as sufficient by the State. The date of permanent withdrawal should be the date on which it is officially known that the pupil has left school, and not necessarily the first day after the date of last attendance.

(o) *Average daily membership.* In a given school year, the "average daily membership" for a given school is the aggregate days of membership of individual children in the school divided by the number of days school was actually in session. Only days on which pupils were under the guidance and direction of teachers in the teaching process may be considered as days in session. The average daily membership for groups of schools having varying lengths of terms is the sum of the average daily memberships obtained for the individual schools.

(p) *Membership of children of temporary duration only.* "Membership of children of temporary duration only" means the school membership of children whose residence in the school area the

Commissioner determines probably will be for less than six years beyond the date of the approval of the complete application and whose number is required to be excluded from computation of maximum payments under section 305.

(q) *Priority indices.* The "priority indices" are the indices established pursuant to this part based on relative urgency of need for the purpose of determining, under title III, the order of approval of applications, and the order of payments.

§ 108.2 *Procedure if funds are inadequate to make all payments.* Section 303, title III, reads in part as follows:

The Commissioner shall from time to time set dates, the last of which shall not be later than June 30, 1956, by which applications for payments under this title with respect to construction projects must be filed. If the funds appropriated under this title and remaining available on any such date for payments to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this title have not already been obligated), the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, for approval of such applications.

§ 108.3 *Determination of priority indices for applications under section 305.* When the Commissioner has set a date by which complete applications must be filed, the priority indices for approval of such applications shall be determined as follows:

(a) A priority index will be determined for the first construction project for each applicant under section 306 by adding (1) the percentage that the estimated membership of the eligible Federally-connected children in the school district (or in the approved attendance area) is of the total estimated membership of all children in such area at the close of the regular school year 1955-56 to (2) the percentage of the estimated school membership within the school district (or in the approved attendance area) which at the same time is without minimum school facilities: *Provided*, That in no case shall the total of the two percentages used in determining the priority index exceed twice the percentage in subparagraph (1) of this paragraph. No priority shall be established for any applicant having less than 20 unhoused children in the school district (or in the approved attendance area).

(b) In those cases where an applicant has filed more than one project application, the priority index for the second project will be determined by: (1) Dividing the normal capacity of the first project by the total estimated membership at the close of the regular school year 1955-56; and (2) reducing the applicant's priority index by twice the percentage so obtained. Where more than two project applications have been filed, the applicant's priority index for each succeeding project shall be reduced by the cumulative total capacity, as provided in the first sentence of this paragraph, of all the approved projects of the applicant.

(c) In those cases where the jurisdictional area of the applicant with respect to which the application is made

comprises an extensive territory and the Federal activity is localized within the area served by one or more attendance centers, and the other attendance centers within the district are practically unavailable to meet the needs of the attendance areas affected by Federal activities, then, in such case, the percentages described in subparagraphs (1) and (2) of paragraph (a) of this section will be determined with respect to the "Federally affected attendance areas," and not with respect to the entire school district. (The conditions of this paragraph may be met only in large county unit school systems and, possibly, in other extensive districts having large housing projects constructed for defense workers or military personnel which have overburdened one or more attendance centers to such an extent that additional school facilities are required to house the children.)

§ 108.4 Determination of available and usable school facilities. The following school facilities shall be counted as usable and available in determining "unhoused children" or "children without school facilities":

(a) All school facilities which were constructed for school use and which have been used continuously for classroom purposes shall be considered as available and usable unless such facilities have become unsafe or otherwise unusable to the extent that use of such facilities or partial use of such facilities has been abandoned or must be abandoned during the fiscal year in which the application is approved. Basement rooms, hallways, or other space the use of which for classroom purposes, in view of their character, inaccessibility or other equally cogent reason, seriously prejudices educational objectives or has impaired or will impair the health or safety of the school children will not be considered to be available and usable. These criteria shall apply to all facilities owned by other Federal agencies which are available or which may be made available for the education of children counted by applicants.

(b) All school facilities for the construction of which contracts have been let on or before any final date for filing applications shall be considered to be available and usable for the purpose of the applications filed on such date; and all school facilities which have been approved under title II, title III, or title IV of Public Law 815 shall be considered as available and usable as of the date of approval.

§ 108.5 Criteria for waiver under section 305 (e) of the act. (a) The Commissioner's authority in section 305 (e) of the act to waive or reduce the percentage requirement or requirements in section 305 (c), to waive the requirement contained in the first sentence of subsection 305 (d) thereof, or to reduce the percentage specified in clause (2) of such sentence will not be exercised unless:

(1) The applicant meets all conditions of eligibility under title III or, on the basis of the authorized waiver or reduction of one or more of the requirements, would meet such conditions;

(2) The applicant specifically states the extent to which it desires the Commissioner to exercise his authority to waive or reduce one or more of such requirements and makes appropriate requests therefor, agreeing that, if such a request is granted in whole or in part, in computing maximum payment under title III only membership of children within the Federally impacted attendance area shall be considered;

(3) The applicant has two or more attendance centers, and its jurisdictional area is county-wide or is sufficiently extensive as to be reasonably analogous to a county-wide school system;

(4) There has been an unusually large Federal impact from the close of the regular school year 1953-54 to the close of the regular school year 1955-56 in an attendance area affecting one or more attendance centers;

(5) It would not be practicable to transport students in the Federally impacted attendance area to other available school facilities of the applicant because of distance, topography or other equally cogent reasons; and

(6) The Commissioner of Education determines that other exceptional circumstances exist which in his judgment require such waiver or reduction to avoid inequity and to avoid defeating the purposes of title III.

(b) If the Commissioner, on the basis of the minimum criteria above set forth, determines, under subsection 305 (e), to exercise his authority to waive or reduce one or more of the specified requirements:

(1) He shall determine which requirement or requirements he will waive, or reduce, and if the latter, the extent of such reduction;

(2) He shall determine the geographical area of the applicant which shall be considered as constituting the "Federally impacted attendance area"; and

(3) The application otherwise will be processed under title III and this part, taking into consideration only the established "Federally impacted attendance area" but in no case shall payments hereunder exceed the amounts computable on the basis of the district as a whole taking into consideration the waivers or reductions approved by the Commissioner.

§ 108.6 School facilities for children whose membership is of temporary duration only. (a) If the Commissioner determines that the membership of some of the children of the applicant, representing otherwise countable Federal increases under section 305 of the act, will be of temporary duration only, as defined in § 108.1 (p), the membership of such children will be excluded in computing maximum payments under section 305.

(b) The Commissioner, when proper request therefor is made in a Part I application, (1) may make available to such applicant such temporary school facilities as may be necessary to take care of the membership of such children as the Commissioner determines will be members of the applicant's school system for a sufficient period of time to justify

the expense; or (2) he may, where the applicant gives assurance in a complete application that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of title III) to such applicant for use in constructing school facilities an amount not greater than the amount which he estimates will be necessary to make available temporary facilities for such children, provided that the amount so paid shall not exceed the cost, in the school district of the applicant, of constructing minimum school facilities for such children. In no case will provision for such children be made unless they are deemed to be without minimum school facilities.

§ 108.7 Certification of payments. Payments to an applicant will be made only on the basis of a complete application satisfying conditions for payment under the act and this part, and will be restricted in amount to the cost of providing minimum school facilities for unhoused children; however:

(a) Within the maximum otherwise payable under title III (except as provided in § 108.8), the Federal share of the cost of a title III project which will be certified for payment shall be equal to the cost but shall in no case exceed the cost in the school district of the applicant of constructing minimum school facilities and shall in no case exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the school of such applicant at the close of the regular school year 1955-56 and who will otherwise be unhoused.

(b) Nothing contained in the regulations in this part shall be deemed to bar an applicant under title III, with the approval of the State educational agency, from using for an approved project, in addition to the Federal grant, monies otherwise obtained to provide a higher type or larger or better implemented school facility. The applicant will be required to show in such cases that the added cost is being thus independently met.

§ 108.8 Additional payments under section 308 of the act. Pursuant to the authority vested in the Commissioner by section 308 of the act:

(a) Not to exceed 10 percentum of any amount appropriated under title III (exclusive of any sums appropriated for administration) is reserved and may be used by the Commissioner to make grants to applicants under title III when (1) the application would be approved under the title but for the applicant's inability, unless aided by such grant, to finance the non-Federal share of the cost of a project; or (2) after the approval of the application the project cannot, without such grant, be completed because of flood, fire or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project.

(b) Under the authority of paragraph (a) (1) of this section, a complete application under title III (except

an application with respect to which the Commissioner has waived or reduced eligibility requirements under section 305 (e) of the act and § 108.5) may be considered for payment of part or all of the non-Federal share of the cost of any project which does not include more than minimum facilities for unhoused children, provided: (1) That the application contains a request for payment hereunder; (2) that the estimated number of children countable for payment under title III for the school year 1955-56 equals or exceeds the number obtained by taking 10 percent of the average daily membership of the applicant district for the school year 1953-54; (3) that the applicant has exhausted all fiscal resources, including State aid, bonding authority and Federal aid, which are practicably available to it and is unable to pay the non-Federal share of the cost of the project; (4) that it has been reached on the priority indices established by this part; and (5) that Federal monies reserved under paragraph (a) of this section are available. The additional payment to the applicant under this provision shall not exceed the non-Federal share of the cost of the project less all financial resources practicably available to the applicant; nor shall it exceed the difference between the average cost in the State of providing minimum school facilities for the Federally connected pupils eligible for payment under the act, and the Federal funds made available to the school district under section 305 of the act.

(e) Under the authority of paragraph (a) (2) of this section, a request by the applicant may be considered for the additional payment of part or all of the funds required to complete a project (to the extent that the completed project will not provide more than minimum school facilities for unhoused children) for which a project application under title III has been approved, provided: (1) Federal monies reserved under paragraph (a) of this section are available; (2) the applicant cannot complete the project because of flood, fire or similar emergency affecting either the work on the project or the applicant's ability to finance the non-Federal share of the cost of the project; and (3) that the applicant has exhausted all financial resources practicably available to it, including State aid, bonding authority and Federal aid. The payment to be made under this paragraph shall not exceed the amount required to pay the additional cost caused by the emergency less any financial resources of the applicant practicably available for such purpose, including the proceeds of any insurance.

§ 108.9 *Priority and approval of applications; conditioned upon readiness to proceed with construction.* Initial approval of a project application meeting the conditions for approval under the act and under this part will be subject to cancellation in the event the applicant is not ready to proceed with construction within 90 days after the date of initial approval, unless such period is extended

by the Commissioner for good cause shown; and the applicant's rights to approval and payment may be subordinated by reason thereof to other project applications of lower rank or the applicant may forfeit its priority in the discretion of the Commissioner.

§ 108.10 *Proceeding provisions not exhaustive of jurisdiction of the Commissioner.* No provision of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

SUBPART B—ESTABLISHMENT OF DEADLINE FOR FILING APPLICATIONS

§ 108.20 *First deadline for applications during fiscal year 1955.* Pursuant to section 303 of title III and § 108.2, December 1, 1954, is fixed as the date on or before which all complete applications for payments to which an applicant may be entitled under title III from funds then available or later made available for such purpose shall be filed.

[SEAL] S. M. BROWNELL,
United States Commissioner
of Education.

Approved: October 11, 1954.

NELSON A. ROCKEFELLER,
Acting Secretary of Health,
Education, and Welfare.

[F. R. Doc. 54-8122; Filed, Oct. 14, 1954;
8:49 a. m.]

PROPOSED RULE MAKING

FEDERAL TRADE COMMISSION

[16 CFR Part 184]

[File No. 405]

FOUNTAIN PEN AND MECHANICAL PENCIL INDUSTRY

NOTICE OF HEARING AND OF OPPORTUNITY TO PRESENT VIEWS, SUGGESTIONS, OR OBJECTIONS

In the matter of proposed revision of existing trade practice rules 4 and 9 for Fountain Pen and Mechanical Pencil Industry involving, respectively, use of word "free," and fictitious prices, price lists, etc.; and addition of a proposed "push-money" rule; File No. 405.

Opportunity is hereby extended by the Federal Trade Commission to any and all persons, firms, corporations, organizations, or other parties, including farm, labor, and consumer groups, affected by or having an interest in the proposed revision and extension of the trade practice rules for the Fountain Pen and Mechanical Pencil Industry, to present to the Commission their views concerning said rules, including such pertinent information, suggestions, or objections as they may desire to submit, and to be heard in the premises. For this purpose

copies of the proposed rules may be obtained upon request to the Commission. Such views, information, suggestions, or objections may be submitted by letter, memorandum, brief, or other communication, to be filed with the Commission not later than November 3, 1954. Opportunity to be heard orally will be afforded at the hearing beginning at 10 a. m., e. s. t., November 3, 1954, in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW., Washington, D. C., to any such persons, firms, corporations, organizations, or other parties, who desire to appear and be heard. After due consideration of all matters presented in writing or orally, the Commission will proceed to final action on the proposed rules.

The industry for which the revised and extended trade practice rules are under consideration in these proceedings consists of all persons, firms, corporations, and organizations engaged in manufacturing (or assembling) and selling or placing on the market fountain pens, ball-point pens, dip pens, or mechanical pencils, of any type and in any combination, and any parts or accessories for such pens and pencils. Institution of the

instant proceedings was in response to an application by an industry group.

Issued: October 12, 1954.

By direction of the Commission.

[SEAL] ROBERT M. FARRISH,
Secretary.

[F. R. Doc. 54-8137; Filed, Oct. 14, 1954;
8:53 a. m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 72-75, 77, 78]

[Notice 17; Docket 3666]

EXPLOSIVES AND OTHER DANGEROUS ARTICLES

NOTICE OF PROPOSED RULE MAKING

OCTOBER 8, 1954.

The Commission is in receipt of applications for early amendment of the above entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway, as published in orders pursuant to section 835, of the Criminal Code and Part II of the Interstate Commerce Act.

Application for these amendments ordinarily would be considered at our next hearing in this docket. It appears, however, that the proposed amendments have been the subject of exchanges and study by interested parties, in which substantial agreement has been reached, and it is proposed that the applications be disposed of by modified procedure. The reasons for the proposed amendments are shown in the appendix, hereof.

Any party desiring to be heard upon any of the proposed amendments shall advise the Commission in writing within 20 days from the date of this notice; otherwise, the Commission may proceed to investigate and determine the matters involved in the application, or

may suspend action pending formal hearing in this docket.

[SEAL]

GEORGE W. LAIRD,
Secretary.

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71-78 OF THIS CHAPTER

Amend § 72.5 commodity list (18 F. R. 5270, Sept. 1, 1953) (17 F. R. 7279, Aug. 9, 1952) (17 F. R. 9833, Nov. 1, 1952) (15 F. R. 8262, 8265, 8269, 8271, 8272, 8273, Dec. 2, 1950) (49 CFR 1950 Rev., 1953 Supp., 72.5) as follows:

§ 72.5 List of explosives and other dangerous articles. (a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Change				
Aldrin mixtures, liquid, with more than 60 percent aldrin.	Pois. B.	73.361	Poison	55 gallons.
Aldrin mixtures, dry, with more than 60 percent aldrin.	Pois. B.	73.376	do	200 pounds.
Diethyl peroxide	Oxy. M.	73.153, 73.154	Yellow	25 pounds.
Propellant explosives, class B.	Expl. B.	No exemption, 73.93	Red	10 pounds.
Vinyl methyl ether, inhibited.	F. G.	73.302, 73.308, 73.314	Red Gas	20 pounds.
Wet nitrocellulose—30 percent alcohol or solvent.	F. L.	73.118, 73.127	Red	25 pounds.
Add				
*Aldrin, east solid	See § 73.376 (b).			
*Aldrin mixtures, liquid, with 60 percent or less aldrin.	See § 73.361 (b).			
*Aldrin mixtures, dry, with 60 percent or less aldrin.	See § 73.376 (b).			
Ammonium nitrate (organic coating).	Oxy. M.	73.153, 73.182	Yellow	100 pounds.
Ammonium nitrate—phosphate mixtures.	Oxy. M.	73.153, 73.182	do	Do.
Ammonium nitrate—carbonate mixtures.	Oxy. M.	73.153, 73.182	do	Do.
*Ammonium nitrate mixed fertilizer.	Oxy. M.	73.153, 73.182	do	Do.
Chromic anhydride. See Chromic acid.				
Chromic trioxide. See Chromic acid.				
Methylhydrazine.	Cor. L.	No exemption, 73.276	White	5 pints.
Propellant explosives, class A.	Expl. A.	No exemption, 73.64(d)		See § 73.86.
Soda emetol. See High explosives.				
Strontium nitrate.	Oxy. M.	73.153, 73.182	Yellow	100 pounds.
Trinitrobenzoic acid, dry. See High explosives.				
Trinitrobenzoic acid, wet, not exceeding 10 ounces.	See § 73.192.			
Trinitrobenzoic acid, wet with not less than 10 percent water, in excess of 10 ounces but not exceeding 25 pounds.	F. S.	No exemption, 73.194	do	25 pounds.
Trinitrobenzoic acid, wet, with not less than 10 percent water, over 25 pounds. See High explosives.				
Unsdimethylhydrazine.	Cor. L.	No exemption, 73.276	White	5 pints.
Cancel				
Ammonium nitrate fertilizer.	Oxy. M.	73.153, 73.182	Yellow	100 pounds.
Ammonium nitrate limestone.	Oxy. M.	73.153, 73.182	do	Do.
Calcium ammonium nitrate.	Oxy. M.	73.153, 73.182	do	Do.
*Nitrate fertilizer mixture.	Oxy. M.	73.153, 73.182	do	Do.
Propellant explosives, class A. See High explosives.				
Strontium nitrate. See Nitrates, n. o. s.				
Wet nitrocellulose (collodion cotton)—20 percent water.	F. S.	73.153, 73.184	do	Do.

PART 73—SHIPPERS

Amend Part 73 as follows:

Cancel the third paragraph following the source citation for Part 73 (15 F. R. 8324, Dec. 13, 1950) (49 CFR, 1950 Rev.) reading as follows:

Documents accompanying all shipments made by way of common, contract, and private carriers, subject to Parts 71-78 of this chapter, shall bear license numbers of the consignees of such shipments according to requirement of the Director, United States Bureau of Mines; and that all losses and thefts of explosives in transit by way of such

carriers shall be reported promptly to the Bureau of Service, Interstate Commerce Commission for transmission to the said Bureau of Mines, by the carrier in whose control the explosives were at the time of any such loss or theft.

SUBPART A—PREPARATION OF ARTICLES FOR TRANSPORTATION BY CARRIERS BY RAIL FREIGHT, RAIL EXPRESS, HIGHWAY, OR WATER

1. Add paragraph (c) to § 73.21 (18 F. R. 802, Feb. 7, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.21) to read as follows:

§ 73.21 Prohibited packing. * * *

(c) The offering for transportation of any package or container of any material which will cause a dangerous evolution of heat or gas under conditions normally incident to transportation is forbidden.

2. Amend § 73.25 (a) (19 F. R. 3258, June 3, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.25) to read as follows:

§ 73.25 Specification containers in outside containers. (a) Outside specification shipping containers containing no acids or corrosive liquids may be shipped when tightly packed in strong outside fiberboard boxes or drums, wooden boxes, barrels or crates, metal barrels or drums, or other enclosures. The outside shipping container must be marked with the prescribed name of contents and labeled as required. Packages required by the regulations in this part to be marked "This Side Up" or "This End Up" must be packed in the outside package with their filling holes up, and the outside package must be marked "THIS SIDE UP" or "THIS END UP". The outside container must also be marked "INSIDE PACKAGES COMPLY WITH PRESCRIBED SPECIFICATIONS" unless the specification markings on the inside packages are visible through openings in the outside package.

3. Cancel Note 1 to paragraph (a) § 73.28 (15 F. R. 8277, Dec. 2, 1950) (49 CFR 73.28, 1950 Rev.)

§ 73.28 Reused containers. (a) * * * (Note 1: Canceled.)

[No change in Note 1 to paragraph (a) (1)]

4. Amend § 73.31 (g), Notes 1 and 2 (19 F. R. 3258, June 3, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.31) to read as follows:

§ 73.31 Qualification, maintenance, and use of tank cars. * * * (g) * * *

NOTE 1: Periodic retests of metal tanks, safety valves, and heater systems of tank cars, except as provided in Note 2, except those in chlorine service, and except tanks made to specification 106A500, 106A500X, 106A800, 106A800X, or 107A (§§ 78.275, 78.276, or 78.277 of this chapter) now required to be made as prescribed in paragraph (g) of this section may be waived because of the present emergency and until March 31, 1955, or until further order of the Commission.

NOTE 2: Periodic retests of metal tanks, safety valves, and heater systems of specification 103A, 103A-W, 103C, 103C-W, and 103C-AL (§§ 78.266, 78.281, 78.268, or 78.283 of this chapter) tank cars, now required to be made as prescribed in paragraph (g) of this section, may be made at 5-year intervals up to 10 years of service, thereafter at 3-year intervals up to 22 years of service, and annually after 22 years of service until March 31, 1955, or until further order of the Commission.

5. Amend § 73.34 (k) (11); add paragraph (k) (13) (17 F. R. 1558, Feb. 20, 1952) (15 F. R. 8284, Dec. 2, 1950) (49 CFR 1950 Rev., 1953 Supp., 73.34) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders. * * *

(k) * * *

(11) Cylinders made in compliance with specifications ICC-4B, ICC-4BA, and ICC-26-300, (§§ 78.50, 78.51 of this chapter) used exclusively for methyl chloride, or liquefied petroleum gas, or dichlorodifluoromethane, difluoroethane, difluoromonoethane, monochlorodifluoromethane, monochlorotetrafluoroethane, monochlorotrifluoroethylene or mixtures thereof or mixtures of one or more with trichloromonoethane, commercially free from corroding components, and protected externally by suitable corrosion resisting coatings (such as galvanizing, painting, etc.) may be retested decennially (see Note 2) instead of quinquennially, or such cylinders may be subjected to an internal hydrostatic pressure equal to at least 2 times the marked service pressure without determination of expansions (see Note 1), but this type of test must be repeated quinquennially after expiration of the first ten-year period (see Note 2). When subjected to this latter test cylinders must be carefully examined under the test pressure and removed from service if leaks or other harmful defects exist. All tests must be supplemented by a very careful examination of the cylinder at each filling, and the cylinder must be rejected if evidence is found of bad dents, corroded areas, a leak or other conditions that indicate possible weakness which would render the cylinder unfit for service.

(Notes 1 and 2 remain the same.)

(13) Cylinders made in compliance with specification ICC-3A480 (§ 78.36 of this chapter) used exclusively for anhydrous ammonia, commercially free from corroding components, and protected externally by suitable corrosion resisting coatings (such as painting, etc.) may be retested decennially instead of quinquennially. All tests must be supplemented by a very careful examination of the cylinder at each filling, and the cylinder must be rejected if evidence is found of bad dents, corroded areas, a leak or other conditions that indicate possible weakness which would render the cylinder unfit for service.

SUBPART B—EXPLOSIVES; DEFINITIONS AND PREPARATION

1. Amend § 73.53 (a) and (b); add paragraph (v) (17 F. R. 1559, Feb. 20, 1952) (15 F. R. 8286, Dec. 2, 1950) (49 CFR 1950 Rev., 1953 Supp., 73.53) to read as follows:

§ 73.53 *Definition of class A explosives*—(a) *Type 1*. Solid explosives which can be caused to deflagrate by contact with sparks or flame such as produced by safety fuse or an electric squib, but cannot be detonated (See Note 1) by means of a No. 8 test blasting cap (See Note 2). Example: Black powder and low explosives.

(b) *Type 2*. Solid explosives which contain a liquid explosive ingredient, and which, when unconfined (See Note 3), can be detonated by means of a No. 8 test blasting cap (See Note 2); or which can be exploded in at least 50 percent of the trials in the Bureau of Explosives' Impact Apparatus (See Note 4) under a drop of 4 inches or more, but cannot be exploded in more than 50 percent of the trials under a drop of less than 4 inches. Example: Commercial dynamite containing a liquid explosive ingredient.

mite containing a liquid explosive ingredient.

(v) *Type 9*. Propellant explosives, class A, are solid chemicals or solid chemical mixtures which are designed to function by rapid combustion of successive layers, generally with little or no smoke. The combustion is controlled by composition, size, and form of grain. Propellant explosives, class A, include some types of smokeless powder and some types of solid propellant explosives for jet thrust units, rockets, or other device. Any propellant explosive is class A which detonates in any one out of five trials when tested in the packages in which it is offered for transportation. In conducting the test, one propellant container shall be surrounded by inert loaded containers of the same weight, including one inert container placed on top of the propellant container. The propellant shall be ignited by means of a commercial electric squib placed within 4 inches of the bottom of the container. The presence of a crater and absence of flame shall be considered as evidences of detonation.

2. Amend § 73.61 (d) (15 F. R. 8288, Dec. 2, 1950) (49 CFR 73.61, 1950 Rev.) to read as follows:

§ 73.61 *High explosives*. * * *

(d) Cartridges shall consist of a column of explosives completely inclosed in a shell made of strong paper or polyethylene or a combination of paper and polyethylene, so treated that it will not absorb the liquid ingredient of the explosive.

3. Amend § 73.63 (e) (2) (17 F. R. 1559, Feb. 20, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.63) to read as follows:

§ 73.63 *High explosive with liquid explosive ingredient*. * * *

(e) * * *

(2) Spec. 23F, 23G, or 23H (§§ 78.214, 78.218, or 78.219 of this chapter). Fiberboard boxes. Spec. 23G must be packed in an outer container consisting of at least 7-ply heavy Kraft paper (See § 73.25 for additional required marking).

4. Amend the heading of § 73.64 and add paragraph (d) (15 F. R. 8289, Dec. 2, 1950) (49 CFR 73.64, 1950 Rev.) to read as follows:

§ 73.64 *High explosives with no liquid explosive ingredient and propellant explosives, class A*.

(d) Propellant explosives, class A, must be packed in containers as prescribed in § 73.93. Each outside container must be plainly marked "PROPELLANT EXPLOSIVES, CLASS A".

5. In § 73.65 amend the introductory text of paragraph (b) and the introductory text and subparagraphs (2) and (3) of paragraph (e) (17 F. R. 7280, Aug. 9, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.65) to read as follows:

§ 73.65 *High explosives with no liquid explosive ingredient nor any chlorate*. * * *

(b) Ammonium picrate, nitroguanidine, nitrourea, urea nitrate, picric acid, tetryl, trinitroresorcinol, trinitrotoluene, pentolite, cyclotrimethylenetrinitramine (desensitized) and soda amylal, in dry condition, in addition to containers prescribed in paragraph (a) (1) to (5) of this section, may be shipped in containers complying with the following specifications:

(e) Ammonium picrate, picric acid, urea nitrate, trinitrobenzene, trinitroresorcinol, trinitrotoluene, cyclotrimethylenetrinitramine, and trinitrobenzoic acid when wet with not less than 10 pounds of water to each 90 pounds of dry material must be shipped in containers complying with the following specifications:

(2) (See § 73.192 for shipments of wet ammonium picrate, wet picric acid, wet trinitrobenzoic acid, and wet urea nitrate not in excess of 16 ounces and § 73.193 for shipments of wet picric acid, wet trinitrobenzoic acid, and wet urea nitrate not in excess of 25 pounds.) (See § 73.212 for shipments of wet trinitrobenzene and wet trinitrotoluene not in excess of 16 ounces.)

(3) Spec. 5B (§ 78.82 of this chapter) metal barrels or drums or Spec. 21A or 21B (§§ 78.222 or 78.223 of this chapter) fiber drums. Authorized only for cyclotrimethylenetrinitramine wet with not less than 10 pounds of water to each 90 pounds of dry material in inside containers which must be bags made of at least 10-ounce cotton duck, rubber or rubberized cloth and securely closed. The dry weight of cyclotrimethylenetrinitramine in one container must not exceed 300 pounds. These bags containing the cyclotrimethylenetrinitramine must then be placed in a rubber bag, rubberized cloth bag or bag made of suitable watertight material which must be securely closed and then placed in the drum. If shipment of cyclotrimethylenetrinitramine is to take place at a time freezing weather is to be anticipated, it must be wet with a mixture of denatured ethyl alcohol and water of such proportions that freezing will not occur in transit.

6. In § 73.88 amend paragraph (f), and add Note 2 to paragraph (f) (17 F. R. 1560, Feb. 20, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.88) to read as follows:

§ 73.88 *Definition of class B explosives*. * * *

(f) *Propellant explosives, class B*. Propellant explosives, class B, are solid chemicals or solid chemical mixtures which function by rapid combustion of successive layers, generally with little or no smoke. The combustion is controlled by composition, size, and form of grain. Any propellant explosive is class B which fails to detonate in five trials when tested (see Note 2) in the packages in which it is offered for shipment. Propellant explosives, class B, include smokeless powder for small arms, smokeless powder for cannon, smokeless powder or solid propellant explosives for rockets, jet

thrust units, or other devices. Black powder is not included in this classification and is defined specifically in § 73.53 (a).

(No change in Note 1.)

NOTE 2: In conducting the test, one propellant container shall be surrounded by inert loaded containers of the same weight, including one inert container placed on top of the propellant container. The propellant shall be ignited by means of a commercial electric squib placed within 4 inches of the bottom of the container. The presence of a crater and absence of flame shall be considered as evidences of detonation.

7. Amend § 73.91 (g) (1) (15 F. R. 8294, Dec. 2, 1950) (49 CFR 73.91, 1950 Rev.) to read as follows:

§ 73.91 *Special fireworks.* * * *

(g) * * *

(1) Spec. 15A, 15B, 16A, or 19A (§§ 78.168, 78.169, 78.185, or 78.190 of this chapter) wooden boxes, or spec. 12B (§ 78.205 of this chapter) fiberboard boxes which must be constructed to comply with § 78.205-30 of this chapter. Not more than 20 one-quarter gross cartons totalling not more than 5 gross of toy torpedoes are authorized per fiberboard box. Gross weight of fiberboard box must not exceed 25 pounds. Gross weight of wooden box must not exceed 65 pounds.

8. Amend § 73.93 (e) (17 F. R. 1561, Feb. 20, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.93) to read as follows:

§ 73.93 *Propellant explosives for cannon, small arms, rockets, guided missiles, or other devices.* * * *

(e) Each outside container must be plainly marked "PROPELLANT EXPLOSIVES, CLASS B" or "PROPELLANT EXPLOSIVES, CLASS B IN WATER", as the case may be. There may be added such additional marking as "Smokeless Powder for Cannon" or "Smokeless Powder for Small Arms", as the case may be.

9. Amend § 73.100 (d) and (s) (15 F. R. 8295, Dec. 2, 1950) (17 F. R. 4294, May 10, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.100) to read as follows:

§ 73.100 *Definitions of class C explosives.* * * *

(d) Cordeau detonant fuse is a fuse containing a core of pentaerythrite tetranitrate or cyclotrimethylene trinitramine not exceeding 160 grains per linear foot, overspun with tapes, yarns and plastics or waterproofing compounds. Wire counterling is permissible.

(s) Igniter cord consists of textile yarns and/or a wire uniformly covered with a combustible chemical mixture, with or without additional textile or wire counterings, waterproofing or finishing coatings which, when ignited, burns externally at various rates according to design. Igniter cord must be packed in strong, tight, outside fiberboard boxes or drums, wooden boxes or metal container plainly marked "IGNITER CORD."

SUBPART C—FLAMMABLE LIQUIDS, DEFINITION AND PREPARATION

1. Amend § 73.118 (a) and (b) (16 F. R. 11777, Nov. 21, 1951) (15 F. R. 8298, Dec. 2, 1950) (49 CFR 1950 Rev., 1953 Supp., 73.118) to read as follows:

§ 73.118 *Exemptions for flammable liquids.* (a) Flammable liquids, except those enumerated in paragraph (c) of this section, in inside metal containers not over 1 quart capacity each, packed in strong outside containers, except as otherwise provided, are exempt from specification packaging, marking, labeling, and placarding requirements for transportation by rail freight or highway. When for transportation by carrier by water, they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

(b) Flammable liquids, except those enumerated in paragraph (c) of this section, in inside containers having a capacity not over 1 pint or 16 ounces by weight each, packed in strong outside containers, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

2. In § 73.128 amend the introductory text of paragraph (c) (15 F. R. 8301, 8302, Dec. 2, 1950) (49 CFR 73.128, 1950 Rev.) to read as follows:

§ 73.128 *Paints and related materials.* * * *

(c) Paint, enamel, lacquer, stain, shellac, varnish, aluminum, bronze, gold, wood filler, liquid, and lacquer base liquid, and thinning, reducing and removing compounds therefor, and driers, liquid, therefor, in glass or earthenware containers of not over 1 quart capacity each, or metal containers of not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight and highway. Unless exempt by § 73.118 when offered for transportation by rail express such shipments are exempt from specification packaging requirements but must be marked with name of contents and bear the red label as prescribed in § 73.405. When offered for transportation by carrier by water such shipments are exempt from specification packaging, marking other than name of contents, and labeling requirements. When fiberboard box is used for such shipments by rail freight, rail express, highway, or water, gross weight must not exceed 65 pounds.

3. Amend § 73.129 (b) (15 F. R. 8302, Dec. 2, 1950) (49 CFR 73.129, 1950 Rev.) to read as follows:

§ 73.129 *Polishes, metal, stove, furniture and wood, liquid.* * * *

(b) Polishes, metal, stove, furniture and wood, liquid, in glass or earthenware

containers of not over 1 quart capacity each, or metal containers not over 5 gallons capacity each, packed in strong outside containers are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements. (See § 73.118 (b) for rail express exemptions.)

4. Add paragraph (a) (7) to § 73.141 (16 F. R. 11777, Nov. 21, 1951) (49 CFR 1950 Rev., 1953 Supp., 73.141) to read as follows:

§ 73.141 *Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.* (a) * * *

(7) Spec. 105A300, 105A300-W, 105A400, 105A400-W, 105A500, 105A500-W, 105A600, or 105A600-W. (Sections 78.271, 78.286, 78.272, 78.287, 78.273, 78.288, 78.274 or 78.289 of this chapter.) Tank cars.

SUBPART D—FLAMMABLE SOLIDS AND OXIDIZING MATERIALS; DEFINITION AND PREPARATION

1. Amend § 73.153 (a) and (b) (15 F. R. 8303, Dec. 2, 1950) (19 F. R. 3260, June 3, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.153) to read as follows:

§ 73.153 *Exemptions for flammable solids and oxidizing materials.* (a) Flammable solids, and oxidizing materials, except those as enumerated in paragraph (c) of this section, in inside containers not over 1 pound net weight each, in outside containers not exceeding 25 pounds net weight each, are exempt from specification packaging, marking, labeling, and placarding requirements, unless otherwise provided, for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements. (See paragraph (c) of this section for articles not exempted, § 73.183 for exemptions for nitrates and paragraph (b) of this section for exemptions for organic peroxide.)

(b) Liquid or solid organic peroxides (see § 73.244 (a)), except acetyl benzoyl peroxide, solid, and benzoyl peroxide in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning, are exempt from specification packaging, marking, labeling and placarding requirements, unless otherwise provided, for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

2. Amend § 73.176 (g) (16 F. R. 9374, Sept. 15, 1951) (49 CFR 1950 Rev., 1953 Supp., 73.176) to read as follows:

§ 73.176 *Matches.* * * *

(g) Matches, strike-on-box, book and card, must be packed in outside fiber-

board or wooden boxes. They may be packed in the same outside container with nonflammable articles when compactly packed in tightly closed inside containers or securely wrapped so as to prevent accidental ignition. When so packed, they are exempt from specification packaging, marking, labeling, and placarding requirements for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging and labeling requirements, but each outside container shall be marked "BOOK MATCHES," "STRIKE-ON-BOX MATCHES," or "CARD MATCHES," as the case may be.

3. Amend § 73.180 (b) (15 F. R. 8307, Dec. 2, 1950) (49 CFR 73.180, 1950 Rev.) to read as follows:

§ 73.180 *Motion-picture film, and X-ray film, unexposed.* * * *

(b) Motion-picture film and X-ray film, unexposed (nitrocellulose base), are exempt from specification packaging, marking other than name of contents, labeling and placarding requirements for transportation by rail freight and highway.

4. In § 73.181 amend the introductory text of paragraph (a) (15 F. R. 8307, Dec. 2, 1950) (49 CFR 73.181, 1950 Rev.) to read as follows:

§ 73.181 *Motion-picture film; exemptions.* (a) Motion-picture film as follows is exempt from specification packaging, marking, labeling and placarding requirements for rail freight, rail express, or highway transportation, but when for transportation by carrier by water is exempt from specification packaging, marking other than name of contents, and labeling requirements.

5. Amend entire § 73.182 (19 F. R. 3260, June 3, 1954) (19 F. R. 1277, 1278, Mar. 6, 1954) (49 CFR 73.182, 1950 Rev.) to read as follows:

§ 73.182 *Nitrates.* (a) Aluminum nitrate, ammonium nitrate, ammonium nitrate (organic coating), ammonium nitrate-carbonate mixture, ammonium nitrate-phosphate mixture, ammonium nitrate mixed fertilizer, barium nitrate, calcium nitrate, guanidine nitrate, lead nitrate, magnesium nitrate, nitrates, n. o. s., nitrate of soda and potash, nitro carbo nitrate, potassium nitrate, silver nitrate, sodium nitrate, and strontium nitrate, when offered for transportation by rail freight, rail express, highway, or carriers by water shall be packed in containers as follows:

(1) Wooden or fiberboard boxes with glass, metal, or other strong inside containers; in metal or fiber drums; in kegs or barrels; or in strong metal cans. When so packed they are exempt from specification packaging, labeling and placarding requirements by rail or highway. Ammonium nitrate-carbonate mixtures and ammonium nitrate mixed fertilizers so packed are exempt from labeling requirements when for transportation by water carriers.

(b) Aluminum nitrate, ammonium nitrate, ammonium nitrate (organic coating), ammonium nitrate-carbonate

mixture, ammonium nitrate-phosphate mixture, ammonium nitrate mixed fertilizer, barium nitrate, calcium nitrate, guanidine nitrate, nitrate of soda and potash, potassium nitrate, and sodium nitrate, when offered for transportation by rail freight, rail express, highway, or carriers by water, in addition to containers prescribed in paragraph (a) of this section, may be packed as follows:

(1) In bulk in tight closed freight cars which shall be free of loose boards, cracks, holes, or exposed decayed spots; interior of cars must be swept clean, doors of cars must have tight closure; journals and boxes must be in good condition; and ammonium nitrate, ammonium nitrate (organic coating), or guanidine nitrate must not be shipped in all-metal cars.

(2) In bulk in sift proof closed or open type motor vehicles which must be swept clean.

(3) In bulk on cargo vessels subject to the Regulations for Explosives or Other Dangerous Articles on Board Vessels prescribed by the Commandant, United States Coast Guard (46 CFR Part 146).

(4) In bags not exceeding 200 pounds net weight, moisture-proof, made tight against sifting, and of strength not less than bags made of 8-ounce burlap. Ammonium nitrate-carbonate mixtures, calcium nitrate, sodium nitrate, or nitrate of soda and potash when so packed are exempt from labeling requirements. Rail shipments must be in clean closed cars which shall be free of loose boards, cracks, holes, or exposed decayed spots; interior of cars must be swept clean and be free of any projections capable of injuring bags; doors of cars must have tight closures; journals and boxes must be in good condition; and ammonium nitrate, ammonium nitrate (organic coating), or guanidine nitrate must not be shipped in all-metal cars (see also § 74.541 (a) (1) of this chapter). Highway shipments must be in closed or open type motor vehicles which must be swept clean and be free of any projections capable of injuring bags; and when shipped in open type motor vehicles the lading shall be suitably covered (see also § 77.823 (a) (4) and (5) of this chapter). Water shipments are also subject to Regulations for Explosives or Other Dangerous Articles on Board Vessels prescribed by the Commandant, United States Coast Guard (46 CFR Part 146).

6. Amend § 73.192 (a) (15 F. R. 8309, Dec. 2, 1950) (49 CFR 73.192, 1950 Rev.) to read as follows:

§ 73.192 *Picric acid, ammonium picrate, picric acid, trinitrobenzoic acid, and urea nitrate, wet.* (a) Picric acid, ammonium picrate, picric acid, trinitrobenzoic acid, and urea nitrate, wet with not less than 10 percent water, in quantity not exceeding 16 ounces in one outside package, may be shipped as drugs, medicines, or chemicals, when in glass bottles securely stoppered, each bottle inclosed in a strong fiber carton properly cushioned in the outside shipping case. No restrictions other than packing prescribed by this section are required when these materials are offered for transportation.

7. Amend entire § 73.193 (15 F. R. 8309, Dec. 2, 1950) (17 F. R. 7281, Aug. 9, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.193) to read as follows:

§ 73.193 *Picric acid, trinitrobenzoic acid, or urea nitrate, wet.* (a) Picric acid, trinitrobenzoic acid, or urea nitrate, wet with not less than 10 percent water must be packed in specification containers as follows:

(1) Spec. 15A (§ 78.168 of this chapter). Wooden box with inside containers of tightly closed glass or earthenware, cushioned, in outside container. The net weight in an outside package must not exceed 25 pounds dry weight. (See § 73.65 (e) for shipment of wet picric acid, wet trinitrobenzoic acid and wet urea nitrate in excess of 25 pounds, and § 73.192 for exemption up to 16 ounces.)

8. Amend § 73.217 (b) (19 F. R. 1279, Mar. 6, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.217) to read as follows:

§ 73.217 *Calcium hypochlorite compounds, dry, and lithium hypochlorite compounds, dry.* * * *

(b) Strong outside wooden or fiberboard packages containing inside containers of glass or metal not over five pounds capacity each, except that metal inside containers not over seven and one-half pounds capacity each are authorized for material in tablet form only, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, or highway. When for transportation by water, strong wooden or fiberboard packages containing inside containers of metal not over five pounds capacity each are exempt from specification packaging only.

9. Amend § 73.218 (a) (1) (19 F. R. 3260, June 3, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.218) to read as follows:

§ 73.218 *Isopropyl percarbonate, unstabilized.* (a) * * *

(1) Spec. 15A, 15B, 15C, 16A, or 19A (§§ 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter). Wooden boxes with glass or earthenware inside containers of not over 2 gallons capacity each which must be maintained at a temperature below 6° F. Shipments are authorized for transportation by private or contract carrier by motor vehicle only.

10. Amend § 73.220 (b) and (c) (19 F. R. 6268, Sept. 29, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.220) to read as follows:

§ 73.220 *Magnesium scrap (borings, clippings, shavings, sheets, or turnings).* * * *

(b) Magnesium scrap consisting of clipping or scrap sheets may be shipped in bulk in carload or truckload quantities. Cars must be tight box cars or tightly closed steel covered gondola cars and trucks or trailers must have closed or completely covered bodies.

(c) Magnesium scrap consisting of clippings or sheets in closed metal drums, wooden barrels, or wooden boxes is exempt from specification packaging, marking, labeling, or placarding requirements.

11. Amend § 73.223 (b) (16 F. R. 5325, June 6, 1951) (49 CFR 1950 Rev., 1953 Supp., 73.223) to read as follows:

§ 73.223 *Peracetic acid.* * * *

(b) Peracetic acid solutions not exceeding 40 percent strength packed in strong wooden or fiberboard boxes, with not more than one inside glass container not exceeding 1 pint or 1 pound capacity, cushioned with sterile absorbent cotton or other cushioning material which will not react with the contents to generate heat, and with such cushioning material in sufficient quantity to completely absorb the contents of the bottle, are exempt from specification packaging, marking, other than name of contents, labeling and placarding requirements.

12. Amend § 73.226 (b) (18 F. R. 3135, June 2, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.226) to read as follows:

§ 73.226 *Thorium metal, powdered.* * * *

(b) Thorium metal powder packed in tightly and securely closed metal cans, cushioned with incombustible material in strong outside wooden or fiberboard boxes, and not exceeding 4 ounces net weight in one outside shipping container, is exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, highway, and carriers by water, except that shipments by water carrier shall be subject to the marking requirements to the extent of showing the name of the contents on the packages.

13. Amend § 73.229 (c) (17 F. R. 9837, Nov. 1, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.229) to read as follows:

§ 73.229 *Chlorate and borate mixtures and chlorate and magnesium chloride mixtures.* * * *

(c) Chlorate and borate mixtures and chlorate and magnesium chloride mixtures containing no other hazardous additives and containing less than 50 percent chlorate, packed in strong tight metal or fiber drums or in wooden boxes with tight inside metal containers are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight or highway.

14. Amend § 73.231 (a) (3) (17 F. R. 4295, May 10, 1952) (49 CFR 1950 Rev., 1953 Supp., 73.231) to read as follows:

§ 73.231 *Calcium, metallic, crystalline.* (a) * * *

(3) Spec. 17C or 17H (§§ 78.115 or 78.118 of this chapter). Metal drums (single-trip), gross weight not over 350 pounds.

SUBPART E—ACIDS AND OTHER CORROSIVE LIQUIDS; DEFINITION AND PREPARATION

1. Amend § 73.244 (a); add paragraphs (c) (49) and (50) (19 F. R. 1278, Mar. 6, 1954) (15 F. R. 8313, Dec. 2, 1950) (49 CFR 73.244, 1950 Rev.) to read as follows:

§ 73.244 *Exemptions for acids and other corrosive liquids.* (a) Acids and other corrosive liquids, except those enumerated in paragraph (c) of this sec-

tion, in inside bottles having a capacity not over 1 pound or 16 ounces by volume each inclosed in a metal can in the outside container are exempt from specification packaging, marking, labeling and placarding requirements unless otherwise provided, for transportation by rail freight or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements, unless otherwise provided.

(c) * * *

(49) Methylhydrazine.

(50) Uns-dimethylhydrazine.

2. Amend § 73.247 (a) (5) (15 F. R. 8313, 8314, Dec. 2, 1950) (49 CFR 73.247, 1950 Rev.) to read as follows:

§ 73.247 *Acetyl chloride, antimony pentachloride, benzoyl chloride, benzyl chloride, pyro sulfur chloride, silicon chloride, sulfur chloride (mono and di), sulfur chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.* (a) * * *

(5) Spec. 5A or 17C (single-trip) (§§ 78.81 or 78.115 of this chapter). Metal barrels or drums with openings not exceeding 2.3 inches in diameter. Benzyl chloride must be stabilized when packed in unlined containers.

3. Amend § 73.249 (c) (15 F. R. 8314, Dec. 2, 1950) (49 CFR 73.249, 1950 Rev.) to read as follows:

§ 73.249 *Alkaline corrosive liquids, n. o. s., alkaline caustic liquids, n. o. s., and alkaline battery fluids.* * * *

(c) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

4. In § 73.250 amend the introductory text of paragraph (a) (18 F. R. 803, Feb. 7, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.250) to read as follows:

§ 73.250 *Automobiles or other self-propelled vehicles.* (a) Automobiles or other self-propelled vehicles equipped with charged electric storage batteries, or with charged electric storage batteries removed from vehicles; and charged electric storage batteries when included in carload or truckload shipments of automobile parts or assembled material are exempt from specification packaging, marking, labeling and placarding requirements as follows: (See also § 73.257 (b)).

5. Amend § 73.260 (d) (15 F. R. 8316, Dec. 2, 1950) (49 CFR 73.260, 1950 Rev.) to read as follows:

§ 73.260 *Electric storage batteries.* * * *

(d) Electric storage batteries, containing electrolyte or corrosive battery fluid, of the nonspillable type, protected against short circuits and completely and securely boxed are exempt from specification packaging, marking, labeling and placarding requirements, for transportation by rail freight, rail express, or highway, but when for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

6. Amend § 73.263 (b) (2) (15 F. R. 8317, Dec. 2, 1950) (49 CFR 73.263, 1950 Rev.) to read as follows:

§ 73.263 *Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited, and sodium chlorite solution.* * * *

(b) (2) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

7. Amend § 73.271 (a) (8) (18 F. R. 6779, Oct. 27, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.271) to read as follows:

§ 73.271 *Phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.* (a) * * *

(8) Spec. MC 310 and MC 311 (§§ 78.330 and 78.331 of this chapter). Tank motor vehicles when tanks are lead-lined or nickel-lined. If nickel-lined, the lining shall comprise at least 1/32 inch of uncontaminated nickel at all points including rivets, welds and other joints, and edges of tank plates.

8. Amend § 73.272 (b) (15 F. R. 8321, Dec. 2, 1950) (49 CFR 73.272, 1950 Rev.) to read as follows:

§ 73.272 *Sulfuric acid.* * * *

(b) Sulfuric acid solutions of not over 25 percent concentrations, in inside containers of not more than 8 ounces capacity each, resistant to the lading, packed in strong outside containers and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in event of breakage, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express or highway. When for transportation by carrier by water they are exempt from specification packaging and labeling requirements and marking other than name of contents.

PROPOSED RULE MAKING

9. In § 73.276 amend the heading and introductory text of paragraph (a) (15 F. R. 8322, Dec. 2, 1950) (49 CFR 73.276, 1950 Rev.) to read as follows:

§ 73.276 *Anhydrous hydrazine, hydrazine solution, methylhydrazine and uns-dimethylhydrazine.* (a) Anhydrous hydrazine, hydrazine solution containing 50 percent or less of water, methylhydrazine and uns-dimethylhydrazine must be packed in specification containers as follows:

10. Amend § 73.277 (d) (15 F. R. 8322, Dec. 2, 1950) (49 CFR 73.277, 1950 Rev.) to read as follows:

§ 73.277 *Hypochlorite solutions.*

(d) Glass or earthenware container of not more than 4-fluid ounces capacity each, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

11. Amend § 73.279 (b) (15 F. R. 8322, Dec. 2, 1950) (49 CFR 73.279, 1950 Rev.) to read as follows:

§ 73.279 *Anisoyl chloride.* . . .

(b) Inside containers of not more than 8-fluid ounces capacity each, resistant to lading, packed in strong outside containers, and cushioned with absorbent material in sufficient quantity to completely absorb liquid contents in the event of breakage, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, or highway. When for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

12. Amend § 73.282 (a) (1) (19 F. R. 3260, June 3, 1954) (49 CFR 73.282, 1950 Rev.) to read as follows:

§ 73.282 *Isopropyl percarbonate, stabilized.* (a) . . .

(1) Spec. 15A, 15B, 15C, 16A, or 19A (§§ 78.168, 78.169, 78.170, 78.185, or 78.190 of this chapter). Wooden boxes with glass or earthenware inside containers of not over 2 gallons capacity each which must be maintained at a temperature below 75° F. Shipments are authorized for transportation by private or contract carrier by motor vehicle only.

13. Add paragraph (a) (10) to § 73.289 (16 F. R. 11779, Nov. 21, 1951) (49 CFR 1950 Rev. 1953 Supp., 73.289) to read as follows:

§ 73.289 *Formic acid and formic acid solutions.* (a) . . .

(10) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside containers of polyethylene, or other non-fragile plastic material resistant to the lading, not over 1 gallon capacity each,

suitably cushioned to prevent movement within the box. Gross weight of complete package must not exceed 65 pounds.

SUBPART F—COMPRESSED GASES; DEFINITION AND PREPARATION

1. In § 73.302 amend the introductory text of paragraph (a) (18 F. R. 3136, June 2, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.302) to read as follows:

§ 73.302 *Exemptions for compressed gases.* (a) Compressed gases, except poisonous gases as defined by § 73.326 (a), when in accordance with either subparagraphs (1), (2), (3), (4), (5), or (6) of this paragraph, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, highway, and carriers by water, except that shipments by water carrier

shall be subject to the marking requirements to the extent of showing the name of the contents on the packages.

2. Cancel Note 1 to paragraph (c) § 73.304 (19 F. R. 1279, Mar. 6, 1954) (49 CFR 73.304, 1950 Rev.).

§ 73.304 *Filling limits.* . . .

(c) . . .
(Note 1: Canceled.)

3. In § 73.308 amend entire Table to paragraph (a) (17 F. R. 9837, 9838, Nov. 1, 1952) (18 F. R. 5272, Sept. 1, 1953) (18 F. R. 6779, Oct. 27, 1953) (19 F. R. 1279, Mar. 6, 1954) (19 F. R. 6269, Sept. 29, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.308) to read as follows:

§ 73.308 *Compressed gases in cylinders.* (a) . . .

Kind of gas	Maximum permitted filling density (see Note 12) (percent)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (e)
Anhydrous ammonia	54	ICC-4; ICC-3A480; ICC-3AA480; ICC-3A480X; ICC-4A480; ICC-4AA480; ICC-3
Carbon dioxide-nitrous oxide mixtures	68	ICC-3A1800; ICC-3AA1800; ICC-3
Carbon monoxide. (See Note 13)	125	ICC-3A1800; ICC-3AA1800; ICC-3
Chlorine. (See Note 6)	125	ICC-3A480; ICC-3AA480; ICC-25; ICC-3
Cyclopropane	55	ICC-3BN480
Dichlorodifluoromethane	119	ICC-3A225; ICC-3A480X; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4AA480; ICC-4B225; ICC-4BA225; ICC-7-300; ICC-3; ICC-3E1800
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture)	(7)	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225; ICC-9
Difluoroethane	79	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4A240; ICC-4B240; ICC-4BA240; ICC-9
Difluoromonoethane	100	ICC-3A150; ICC-3AA150; ICC-3B150; ICC-4B150; ICC-4BA225
Dimethylamine, anhydrous	59	ICC-3A150; ICC-3AA150; ICC-3B150; ICC-4B150; ICC-4BA225
Ethane	35.8	ICC-3A1800; ICC-3AA1800; ICC-3
Ethane	30.8	ICC-3A2000; ICC-3AA2000
Ethylene	31.0	ICC-3A1800; ICC-3AA1800; ICC-3
Ethylene	32.5	ICC-3A2000; ICC-3AA2000
Hydrogen chloride	60	ICC-3A1800; ICC-3AA1800; ICC-3
Hydrogen sulfide	68	ICC-3A480; ICC-3AA480; ICC-3B480; ICC-4A480; ICC-4BA480; ICC-25-480
Insecticide, liquefied gas. (See Note 8)	(7)	ICC-3A300; ICC-3AA300; ICC-3B300; ICC-4B300; ICC-4BA300; ICC-9; ICC-40; ICC-41
Liquefied carbon dioxide. (See Notes 3 and 5)	68	ICC-3A1800; ICC-3AA1800; ICC-3
Liquefied nonflammable gases, liquids other than those classified as flammable, corrosive, or poisonous and mixtures or solutions thereof, charged with nitrogen, carbon dioxide, or air. (See Note 10)	(7)	ICC-3A300; ICC-3AA300; ICC-4B300; ICC-4BA300; ICC-4D300
Methyl chloride. (See Note 4)	84	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225; ICC-3
Methyl mercaptan	80	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4B240; ICC-4BA240
Monochlorodifluoromethane	105	ICC-3A240; ICC-3AA240; ICC-3B240; ICC-4B240; ICC-4BA240; ICC-4B240E
Monochloropentafluoroethane	110	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225
Monochlorotrifluoromethane	100	ICC-3A1800; ICC-3AA1800; ICC-3
Monomethylamine, anhydrous	60	ICC-3A150; ICC-3AA150; ICC-3B150; ICC-4B150; ICC-4BA225
Nitrosyl chloride	110	ICC-3BN400 only
Nitrous oxide. (See Note 2)	68	ICC-3A1800; ICC-3AA1800; ICC-3
Sulfur dioxide	125	ICC-3A225; ICC-3AA225; ICC-3B225; ICC-4A225; ICC-4B225; ICC-4BA225; ICC-3; ICC-4; ICC-25; ICC-26-150; ICC-38
Sulfur hexafluoride	110	ICC-3A1800; ICC-3AA1800; ICC-3
Tetrafluoroethylene, inhibited	90	ICC-3A1200; ICC-3AA1200; ICC-3E180
Trifluorochloroethylene	115	ICC-3A300; ICC-3AA300; ICC-3B300; ICC-4A300; ICC-4B300; ICC-4BA300
Trimethylamine, anhydrous	57	ICC-3A150; ICC-3AA150; ICC-3B150; ICC-4B150; ICC-4BA225
Vinyl chloride, inhibited. (See Note 7)	84	ICC-4B300, without brazed seams; ICC-4BA300, without brazed seams; ICC-3A300; ICC-3AA300; ICC-25
Vinyl methyl ether, inhibited. (See Note 7)	68	ICC-4B150, without brazed seams; ICC-4BA225, without brazed seams; ICC-3A150; ICC-3AA150; ICC-3B150; ICC-25

§ 73.304 (a) and (b).

§ 73.304 (a) and (b) and the pressure in the container must not at 130° F. exceed 5/4 the marked service pressure of the container.

PROPOSED RULE MAKING

(nominal). Valves or other closing devices must be protected, to prevent injury in transit, by screw-on metal caps or by packing the cylinders in strong boxes or crates. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates (see § 73.25).

4. Amend entire § 73.361 (17 F. R. 7283, Aug. 9, 1952) (18 F. R. 5273, Sept. 1, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.361) to read as follows:

§ 73.361 Aldrin mixtures, liquid, with more than 60 percent aldrin. (a) Aldrin mixtures, liquid, with more than 60 percent aldrin must be shipped in specification containers as follows:

(1) As prescribed in § 73.366.
(2) Spec. 6A, 6B, or 6C (§§ 78.97, 78.98, or 78.99 of this chapter). Metal barrels or drums. Authorized only for viscous mixtures or those which may become partially solid.

(3) Spec. 17C or 17H (§ 78.115 or § 78.118 of this chapter). Metal drums (single-trip). Drums with opening exceeding 2.3 inches in diameter authorized only for viscous mixtures or those which may become partially solid.

(b) Aldrin mixtures, liquid, containing 60 percent or less aldrin and no other material classed as dangerous under these regulations are not subject to Parts 71-78 of this chapter.

5. In § 73.364 amend the introductory text of paragraph (a) (19 F. R. 1280, 1281, Mar. 6, 1954) (49 CFR 1950 Rev., 1953 Supp., 73.364) to read as follows:

§ 73.364 Exemptions for poisonous solids, class B. (a) Poisonous solids, class B, except beryllium metal powder; cyanides, other than as specified in § 73.370 (c) and (d); hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, other than as specified in § 73.377 (e); in tightly closed inside containers, securely cushioned when necessary to prevent breakage and packed as follows, are exempt from specification packaging, marking, labeling and placarding requirements for transportation by rail freight, rail express, or highway, but when for transportation by carrier by water they are exempt from specification packaging, marking other than name of contents, and labeling requirements.

6. In § 73.370 amend the introductory text of paragraph (b) and introductory text of paragraph (d) (18 F. R. 805, Feb. 7, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.370) to read as follows:

§ 73.370 Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof. . . .

(b) Cyanides, except cyanide of calcium and mixtures thereof; exemptions. Cyanides, except cyanide of calcium and mixtures thereof (see par. (d) of this section), when packed and described as follows are exempt from specification packaging, labeling and placarding requirements:

(d) Cyanide of calcium and mixtures thereof; exemptions. Cyanide of calcium and mixtures thereof when packed and described as follows are exempt from specification packaging, labeling and placarding requirements:

7. Amend entire § 73.376 (17 F. R. 7283, Aug. 9, 1952) (18 F. R. 3137, June 2, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.376) to read as follows:

§ 73.376 Aldrin mixtures, dry, with more than 65 percent aldrin. (a) Aldrin mixtures, dry, with more than 65 percent aldrin, must be packed in specification containers as follows:

(1) As prescribed in § 73.365.
(b) Dry mixtures containing 65 percent or less aldrin, or aldrin, cast solid, and containing no other material classed as dangerous under these regulations are not subject to Parts 71-78 of this chapter.

8. Amend § 73.377 (e) (18 F. R. 5273, Sept. 1, 1953) (49 CFR 1950 Rev., 1953 Supp., 73.377) to read as follows:

§ 73.377 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, dry. . . .

(e) Dry mixtures containing not more than 2 percent by weight of hexaethyl tetraphosphate, methyl parathion, parathion, tetraethyl dithio pyrophosphate, or tetraethyl pyrophosphate, and in which the liquid is absorbed in an inert material, are exempt from specification packaging, marking, labeling and placarding requirements.

9. Amend § 73.393 (f) (15 F. R. 8339, Dec. 2, 1950) (49 CFR 73.393, 1950 Rev.) to read as follows:

§ 73.393 Packing and shielding. . . .
(f) The outside shipping container for any radioactive material unless specifically exempt by § 73.392 must be a wooden box specification 15A or 15B (§ 78.168 or § 78.169 of this chapter), fiber drum specification 21A or 21B (§ 78.222 or § 78.223 of this chapter), or a fiberboard box specification 12B (§ 78.205 of this chapter), except that equally efficient containers may be used when approved by the Bureau of Explosives.

SUBPART H—MARKING AND LABELING EXPLOSIVES AND OTHER DANGEROUS ARTICLES

1. Amend § 73.432 (a) (15 F. R. 8344, Dec. 2, 1950) (49 CFR 73.432, 1950 Rev.) to read as follows:

§ 73.432 Tank car shipments. (a) Tank cars containing flammable liquids having a flash point of 80° F. or below, except liquid road asphalt or tar, must not be offered for shipment unless originally consigned or subsequently re-consigned to parties having private-siding (see Note 1 of this section) or to parties using railroad-siding facilities which have been equipped for piping the liquid from tank cars to permanent storage tanks of sufficient capacity to receive contents of car.

PART 74—CARRIERS BY RAIL FREIGHT

SUBPART A—LOADING, UNLOADING, PLACARDING AND HANDLING CARS; LOADING PACKAGES INTO CARS

1. Amend § 74.525 (b) (12) (17 F. R. 4296, May 10, 1952) (49 CFR 1950 Rev., 1953 Supp., 74.525) to read as follows:

§ 74.525 Loading packages of explosives in cars, selection, preparation, inspection of car and certificate. . . .

(b)
(12) Except as provided in § 74.584 (h), a car must not be loaded with any explosives, class A, until it shall have been thoroughly inspected by a competent employee of the carrier who shall certify as to its proper condition under this section and shall sign certificate No. 1 prescribed in paragraph (c) (2) and (3) of this section.

2. Amend § 74.526 (a) (15 F. R. 8346, Dec. 2, 1950) (49 CFR 74.526, 1950 Rev.) to read as follows:

§ 74.526 Loading explosives into cars. (a) Boxes or other containers of class A explosives named in §§ 73.53 to 73.87 of this chapter when marked "This Side Up" must be loaded accordingly. Boxes may be loaded crosswise or lengthwise of the car, but not so that the ends of wooden boxes will bear against the sides of fiberboard boxes, or so that the end of any box will cause a high pressure on a small area of another box.

SUBPART D—UNLOADING FROM CARS

1. Amend § 74.560 (a) (15 F. R. 8352, Dec. 2, 1950) (49 CFR 74.560, 1950 Rev.) to read as follows:

§ 74.560 Tank car delivery. (a) Tank cars containing flammable liquids having a flash point of 80° F. or below, except liquid road asphalt or tar, must not be delivered unless originally consigned or subsequently re-consigned to parties having private-siding (see Note 1 of this section) or to parties using railroad-siding facilities which have been equipped for piping the liquid from tank cars to permanent storage tanks of sufficient capacity to receive contents of tank cars.

2. In § 74.564 amend the introductory text of paragraph (b) (15 F. R. 8353, Dec. 2, 1950) (49 CFR 74.564, 1950 Rev.) to read as follows:

§ 74.564 Removal and disposition of explosives and other dangerous articles at destination. . . .

(b) Delivery at agency stations. Carrier must require consignee to remove shipments of explosives and other dangerous articles from carrier's property within 48 hours after notice of arrival has been sent or given. Saturdays, Sundays, and holidays are not included. If not so removed, carrier must immediately dispose of the shipments as follows:

3. Amend § 74.566 (d) (15 F. R. 8353, 8354, Dec. 2, 1950) (49 CFR 74.566, 1950 Rev.) to read as follows:

§ 74.566 *Cleaning cars.* * * *

(d) Any railroad car which has been contaminated by radioactive material must be thoroughly cleaned by the consignee, or by a qualified authorized agent of the consignee receiving the radioactive material, in such a manner as to reduce the radiation in any part of the railroad car to not more than 10 milliroentgens in 24 hours at any time thereafter as a result of the contamination, and a certificate to that effect must be furnished to the local agent of the carrier.

SUBPART E—HANDLING BY CARRIERS BY RAIL FREIGHT

1. Amend § 74.582 (a) (17 F. R. 4296, May 10, 1952) (49 CFR 1950 Rev., 1953 Supp., 74.582) to read as follows:

§ 74.582 *Movement to be expedited.* (a) Carriers must forward shipments of explosives and other dangerous articles promptly and within 48 hours, Saturdays, Sundays, and holidays excluded, after acceptance at originating point or receipt at any yard, transfer station, or interchange point, except that where bi-weekly or weekly service only is performed, shipments of explosives and other dangerous articles must be forwarded on the first available train.

2. Amend § 74.584 (h) (18 F. R. 6781, Oct. 27, 1953) (49 CFR 1950 Rev., 1953 Supp., 74.584) to read as follows:

§ 74.584 *Waybills, switching orders, or other billing.* * * *

(h) At stations, or other points, where other shipments of any material are loaded into a properly certified and placarded car received with shipments of explosives, or when shipments of explosives are transferred or reloaded, or carload shipments are reconsigned, a record must be kept of the car, originating point, carrier's name and date of car certificate. The blocking or bracing at these points to secure the lading must be inspected as provided in § 74.525 and certified for compliance with these regulations by the person making the inspection who shall sign the car certificates immediately below the signature which appears on certificate No. 2 of the original car certificates attached to the car.

3. Amend § 74.596 (a) and (b) (15 F. R. 8358, Dec. 2, 1950) (49 CFR 74.596, 1950 Rev.) to read as follows:

§ 74.596 *Inspection of tank cars.* (a) Placarded loaded tank cars must be inspected by the carrier before acceptance at the originating points and when received in interchange to see that they are not leaking and that the air and hand brakes, journal boxes, and trucks are in proper condition for service.

(b) Empty tank cars previously containing a dangerous article tendered for movement or when received in interchange must have manhole covers, outlet valve reducers, outlet valve caps, outlet valve cap plugs, end plugs, and plugs or caps of other openings securely in their proper places; except that heater coil inlet and outlet pipes must be left open for drainage.

PART 75—CARRIERS BY RAIL EXPRESS

Amend § 75.656 (a) (15 F. R. 8360, Dec. 2, 1950) (49 CFR 75.656, 1950 Rev.) to read as follows:

§ 75.656 *Removal at destination.* (a) Shipments of explosives and other dangerous articles as defined by Part 73 of this chapter which cannot be delivered within 48 hours after arrival at destination, Saturdays, Sundays, and holidays not included, or shipments which are refused by the consignee, must be promptly disposed of (1) by return to the shipper, if in proper shipping condition, or (2) by storage, provided a suitable storage place for such articles is available off the carrier's property, or (3) by sale, or (4) when necessary to safety, by destruction: *Provided*, That charged electric batteries may be held for 30 days after arrival at destination, pending delivery or disposition.

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

SUBPART B—LOADING AND UNLOADING

Amend § 77.835 (h) (15 F. R. 8365, Dec. 2, 1950) (49 CFR 77.835, 1950 Rev.) to read as follows:

§ 77.835 *Explosives.* * * *
(h) *Lading within body or covered, tailgate closed.* Except as provided in paragraphs (g), (k), and (m) of this section, dealing with the transportation of liquid nitroglycerin, desensitized liquid nitroglycerin or diethylene glycol dinitrate, other than as defined in § 73.53 (e) of this chapter, all of that portion of the lading of any motor vehicle which consists of explosives shall be contained entirely within the body of the motor vehicle, and if such motor vehicle has a tailboard or tailgate, it shall be closed and secured in place during such transportation. Every motor vehicle transporting explosives must either have a closed body or have the body thereof covered with a tarpaulin, and in either event care must be taken to protect the load from moisture and sparks. The exterior of the cargo carrying body of every motor vehicle the date of manufacture of which is subsequent to December 31, 1955, if used for the transportation of class A or class B explosives, and of every such vehicle used after December 31, 1956 for the transportation of such explosives, shall be made of metal, including the top, sides, ends, and bottom, provided that this requirement shall not be construed so as to forbid the painting of such metal. No vehicle without a metal top shall be used for the transportation of such explosives.

SUBPART D—VEHICLES AND SHIPMENTS IN TRANSIT; ACCIDENTS

Add paragraph (d) to § 77.860 (15 F. R. 8371, Dec. 2, 1950) (49 CFR 77.860, 1950 Rev.) to read as follows:

§ 77.860 *Accidents; poisons.* * * *
(d) *Cleaning vehicles.* Any motor vehicle which has been contaminated by radioactive material must be thoroughly

cleaned by the consignee, or by a qualified authorized agent of the consignee receiving the radioactive material, in such a manner as to reduce the radiation in any part of the motor vehicle to not more than 10 milliroentgens in 24 hours at any time thereafter as a result of the contamination, and a certificate to that effect must be furnished the carrier or to the driver of the motor vehicle.

PART 78—SHIPPING CONTAINER SPECIFICATIONS

SUBPART D—SPECIFICATIONS FOR METAL BARRELS, DRUMS, KEGS, CASES, TRUNKS AND BOXES

1. Amend § 78.92-9 (a) (15 F. R. 8442, Dec. 2, 1950) (49 CFR 78.92-9, 1950 Rev.) to read as follows:

§ 78.92 *Specification 5P; lagged steel drums.* * * *

§ 78.92-9 *Safety devices.* (a) Each container must be provided with safety devices approved as to type and location by the Bureau of Explosives and found to prevent the bursting of the normally charged container when it is placed in a fire. See § 73.124 (a) (4) of this chapter.

2. Amend § 78.116-8 (c) (15 F. R. 8449, Dec. 2, 1950) (49 CFR 78.116-8, 1950 Rev.) to read as follows:

§ 78.116 *Specification 17E; steel drums.* * * *

§ 78.116-8 *Closures.* * * *
(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug, or cap, must have 3 or more threads; two drainage holes of not over $\frac{5}{16}$ inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when screwed home with gasket in place. *Provided*, That for containers having a capacity of 12 gallons and less the seat (flange, etc.) for plug, or cap, must have two or more complete threads and plug, or cap, must have sufficient length of thread to engage two threads when screwed home with gasket in place.

3. Amend § 78.118-8 (c) (15 F. R. 8450, Dec. 2, 1950) (49 CFR 78.118-8, 1950 Rev.) to read as follows:

§ 78.118 *Specification 17H; steel drums.* * * *

§ 78.118-8 *Closures.* * * *
(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug, or cap, must have 3 or more threads; two drainage holes of not over $\frac{5}{16}$ inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when screwed home with gasket in place. *Provided*, That for containers having a capacity of 12 gallons and less the seat (flange, etc.) for plug, or cap, must have two or more complete threads and plug, or cap, must have sufficient length of thread to engage two threads when screwed home with gasket in place.

SUBPART F—SPECIFICATIONS FOR FIBERBOARD BOXES, DRUMS, AND MAILING TUBES

1. Add § 78.205-30 (15 F. R. 8476, Dec. 2, 1950) (49 CFR 78.205-30, 1950 Rev.) to read as follows:

§ 78.205 *Specification 12B; fiberboard boxes.*

§ 78.205-30 *Special box; authorized only for toy torpedoes.* (a) Must comply with this specification and the following: Must be one-piece type fabricated of double-wall corrugated fiberboard having minimum strength of 350 pounds per square inch, Mullen or Cady test. Box shall be provided with double-face lining on all sides and top and bottom pads. Gross weight not to exceed 25 pounds.

2. In § 78.222-2, paragraph (a) Table, amend the 1st figure of the 5th column to read "590" instead of "500" (19 F. R. 6275, Sept. 29, 1954) (49 CFR 78.222-2, 1950 Rev.)

SUBPART J—SPECIFICATIONS FOR CONTAINERS FOR MOTOR VEHICLE TRANSPORTATION

Add § 78.325 (15 F. R. 8554, Dec. 2, 1950) (49 CFR 78.325, 1950 Rev.) to read as follows:

§ 78.325 *Specification MC 304; steel cargo tanks for transporting flammable liquids having vapor pressures above 18 pounds per square inch absolute at 115° F., but not classified as compressed gas.*

§ 78.325-1 *Requirements for design.* (a) Tanks shall be of seamless or welded steel construction and shall be designed and constructed in accordance with Section VIII of the ASME Boiler Construction Code, Rules for Construction of Unfired Pressure Vessels, 1950 Edition, except that Section W of the API-ASME Code for Unfired Pressure Vessels for Petroleum Liquids and Gases, 1943 Edition, may be substituted for like matters covered by the ASME Code. Compliance with the following shall not be required: Paragraph UG-125 to UG-134, inclusive, of the ASME Code, and Paragraph W-601 to W-606, inclusive, of the API-ASME Code. Hereinafter either or both of the aforementioned codes will be referred to as the "Code".

§ 78.325-2 *Design working pressure.* (a) The design working pressure shall not be less than the highest of the gauge vapor pressures of the commodities to be transported therein at 115° F. nor less than three pounds per square inch gauge.

§ 78.325-3 *Material.* (a) All material utilized in the construction of the tank and appurtenances shall be suitable for use with the commodity to be transported, shall not be subject to destructive attack by the contents, and shall conform to any specification in the Code. Non-malleable metals shall not be employed in the construction of valves, piping, and fittings.

§ 78.325-4 *Pipe joints.* (a) Welded pipe joints shall be used wherever possible. Joints in copper tubing shall be of the brazed type or of any equally strong metal union type. The melting

point of brazing material must not be less than 1000° F. Such joints shall in any event be of such a character as not to decrease the strength of the tubing, as by the cutting of threads.

§ 78.325-5 *Strength of piping, fittings, hose, and hose couplings.* (a) Non-welded fittings shall be extra heavy. Hose, piping, fittings and pumps shall be designed for a bursting pressure at least four times the design working pressure of the tank with which they are used and not less than four times the pressure to which, in any instance, they may be subjected in service by the action of the pump or other device (not including safety relief valves), the action of which may be to subject certain portions of the pump, tank piping or hose to pressures greater than the design working pressure of the tank. Any coupling used on hose to make connections shall be designed for a working pressure not less than 20 percent in excess of the design working pressure of the hose and shall be so designed that there will be no leakage when connected.

§ 78.325-6 *Bulkheads.* (a) Every cargo tank having a total capacity in excess of 1,500 gallons shall be divided by bulkheads into compartments none of which shall exceed 1,200 gallons except that a manufacturing tolerance of ten percent (10%) shall be allowed for capacities of individual compartments or tanks. Flat bulkheads without reinforcement by rolling, dishing, corrugating, or other equally strong means are prohibited.

(b) Tanks with compartments carrying flammable liquids of different shipping names or with compartments containing flammable liquids and liquids classified as nonflammable by the regulations, shall be provided with an air space between compartments. This air space shall be equipped and maintained with drainage facilities operative at all times.

§ 78.325-7 *Baffles.* (a) Every cargo tank and every compartment of a cargo tank over ninety inches in length shall be provided with baffles, the number of which shall be such that the linear distance between two adjacent baffles, or between any tank head or bulkhead and an adjacent baffle, shall in no case exceed 60 inches. The cross-sectional area of each baffle shall not be less than 80 percent of the cross-sectional area of the tank at the same point.

§ 78.325-8 *Anchoring of tank.* (a) Adequate hold down devices shall be provided to anchor each cargo tank in a suitable manner that will not introduce under concentration of stresses. These devices on vehicles with frames shall incorporate turnbuckles or similar positive action devices for drawing the tank down tight on the frame of the motor vehicle, and such devices shall be designed with a factor of safety of not less than four, and shall be built to withstand loadings in any direction equal to two times the weight of the tank and attachments when filled with water.

(b) Suitable stops and anchors shall be attached to the motor vehicle and the tank to prevent relative movement be-

tween them due to starting, stopping, and turning. These stops or anchors shall be installed so as to be readily accessible for inspection and maintenance, except that lagging for lagged tanks is permitted to cover such steps and anchors.

(c) Whenever any cargo tank is so designed and constructed that the cargo tank constitutes, in whole or in part, the stress member used in lieu of a frame, then such cargo tanks shall be designed so as to successfully and adequately withstand the stresses thereby imposed in addition to those covered in the Code.

§ 78.325-9 *Filling and discharge shut-off valves.* (a) Filling and discharge lines shall be provided with shut-off valves located as close to the tank outlet as is practicable. If such valves are not manually operated, they shall be of an automatic quick-closing internal valve type or an automatic shut-off type provided that if such valves are used, the lines must have a manually-operated shut-off valve located in the line ahead of the hose connection. Stop-check or excess flow valves cannot be used to satisfy the requirements of this section.

§ 78.325-10 *Gauging devices.* (a) Every cargo tank, except tanks filled by weight, shall be equipped with one or more gauging devices which shall indicate accurately the maximum permitted liquid level. Additional gauging devices may be installed but may not be used as primary controls for filling of cargo tanks. Acceptable gauging devices are the rotary tube, the adjustable slip tube, and the fixed length dip tube. Gauge glasses are not permitted to be installed on any cargo tank.

(b) All liquid level gauging devices, except those on tanks provided with fixed maximum level indicators, shall be legibly and permanently marked in increments of not more than 20 Fahrenheit degrees to indicate the maximum levels to which the tank may be filled with liquid at temperatures above 20° F. In the event that it is impracticable to put these markings on the gauging device, this information shall be marked on a suitable plate affixed to the tank in a location adjacent to the gauging device.

(c) A fixed length dip tube gauging device, when used, shall consist of a dip pipe of small diameter equipped with a valve at the outer end, and extending into the tank to a specified fixed length. On horizontally-mounted cylindrical tanks the fixed length to which the tube extends into the tank shall be such that the device will function to indicate when the liquid, at a point equidistant from the heads of the tank in a vertical plane containing the longitudinal axis of the tank, reaches the maximum level permitted by these regulations. On spherical tanks and on vertically-mounted cylindrical tanks the fixed length to which the tube extends into the tank shall be such that the device will function to indicate when the liquid at a point on the vertical axis of the tank in its normal position reaches the maximum level permitted by the regulations in this part.

§ 78.325-11 *Safety devices.* (a) Each compartment of each tank shall be pro-

vided with one or more safety devices which, unless otherwise authorized, shall be safety relief valves of the spring-loaded type, and they shall be arranged to discharge upward and unobstructed in such a manner as to prevent any impingement of escaping gas upon the tank.

(b) Safety relief valves on any tank shall be set to start to discharge at a pressure not in excess of the design working pressure of the tank and shall have a total relieving capacity sufficient to prevent a maximum pressure in the tank of more than 120 percent of the design working pressure, in accordance with Fetterly's formula. The required relieving capacity of safety relief valves for lagged tanks shall be based upon the heat input to a bare tank, except in the case of fully insulated tanks covered by a sheet metal jacket of not less than 16 gauge nominal thickness.

(c) Each safety relief valve shall be plainly and permanently marked (1) with the pressure in pounds per square inch gauge at which it is set to discharge, (2) with the actual rate of discharge of the device in cubic feet per minute of the gas at 60° F. and atmospheric pressure, and (3) with the manufacturer's name and catalogue number. The rated discharge capacity of the device shall be determined at a pressure of 120 percent of the design working pressure of the tank.

(d) Connections to safety relief valves shall be of sufficient size to provide the required rate of discharge through the safety relief valves.

(e) Safety relief valves shall be arranged so that the possibility of tampering will be minimized. If the pressure setting or adjustment is external, the safety relief valves shall be provided with suitable means for sealing the adjustment.

(f) No shut-off valves shall be installed between the safety relief valves and the tank except, in cases where two or more safety relief valves are installed on the same tank, a shut-off valve may be used where the arrangement of the shut-off valve or valves is such as always to afford full required capacity flow through at least one safety relief valve.

(g) Connection of safety relief valve to vapor space: Safety relief valves shall have direct communication with the vapor space of the tank.

(h) Any portion of liquid piping or hose which at any time may be closed at each end must be provided with a safety relief valve to prevent excessive hydrostatic pressure. This safety relief valve must not have an intervening shut-off valve installed.

(i) Automatic excess-flow valves: Each cargo tank outlet shall be provided with a suitable automatic excess-flow valve or, in lieu thereof, may be fitted with a quick-closing internal valve actuated by an independent fluid medium or by the contents if designed, installed, and operated so as to assure against escape of the contents in event of failure of the outlet. These valves shall be located inside the tank or at a point outside the tank where the line enters or leaves the tank. The valve seat shall

be located inside the tank or shall be located within a welded flange or its companion flange, or within a nozzle, or within a coupling. The installation shall be made in such a manner as reasonably to assure that any undue strain which causes failure requiring functioning of the valve shall cause failure in such a manner that it will not impair the operation of the valve, except that safety device connections and liquid level gauging devices which are so constructed that the outward flow of tank contents shall not exceed that passed by a No. 54 drill size opening are not required to be equipped with excess-flow valves.

(j) Excess-flow valves shall be so installed and adjusted that they close automatically at the rated flows of gas or liquid as specified by the valve manufacturer.

(k) Capacity of connections to valves: The connections or lines on each side of an excess-flow valve, including valve fittings, etc., shall have a greater capacity than the rated flow of the excess-flow valve.

(l) By-pass valve: Excess-flow valves may be designed with a by-pass not to exceed a No. 60 drill size opening, to allow equalization of pressures.

(m) Utilization of stop-check valves forbidden: The use of combination stop-check valves to satisfy with one valve requirements of § 78.325-9 and of paragraphs (j) to (k) of this section is forbidden.

§ 78.325-12 *Pumps.* (a) Liquid pumps, whenever used, must be of suitable design, adequately protected against breakage or other damage to the pumps or associated piping by collisions, and kept in good condition. They may be driven by motor vehicle power take-off or other mechanical, electrical, or hydraulic means. Unless they are of the centrifugal type, they shall be equipped with suitable pressure actuated by-pass valves permitting flow from discharge to suction or to the tank.

§ 78.325-13 *Provision for expansion and vibration.* (a) Suitable provision shall be made in every case to allow for expansion, contraction, and jarring, and to prevent excessive vibration of all pipe. Slip joints shall not be used for this purpose.

§ 78.325-14 *Tank outlets.* (a) Outlet fixtures of tanks shall be substantially made and attached to the tank in such a manner as to prevent breakage at the outlet point.

§ 78.325-15 *Shear section.* (a) There shall be provided between each excess-flow valve seat or equivalent, and draw-off valve, a shear section which will break under strain, unless the discharge piping is so arranged as to afford equivalent protection, and leave the excess-flow valve seat intact in case of accident to the draw-off valve or piping.

§ 78.325-16 *Protection of piping and appurtenances.* (a) Piping, fittings, and draw-off valves projecting beyond the frame, or if the vehicle be frameless beyond the shell, shall be adequately protected by steel bumpers or other

equally effective devices, against collision. Any other part of any cargo tank connected with its cargo space and similarly protruding shall be similarly protected.

§ 78.325-17 *Overturn protection.* (a) All closures for filling openings shall be protected from damage in the event of overturning of the motor vehicle by being enclosed within the body of the tank or dome attached thereto or by the use of suitable metal guards securely attached to the tank or the frame of the motor vehicle. Protection shall also be provided for any protruding or projecting fitting or appurtenance by means of adequate metal guards. The guards shall be designed with a minimum factor of safety of four to withstand loadings in any direction equal to two times the weight of the tank and attachments when filled with water. If the overturn protection is so constructed as to permit accumulation of liquid on the top of the tank, it shall not be provided with drainage facilities which will permit drainage at or near the front of the tank.

§ 78.325-18 *Test requirements.* (a) The cargo tank shall withstand without leakage a hydrostatic pressure test as prescribed in the appropriate Code under which the cargo tank was constructed. While under test pressure, the tank shall be inspected for leakage, corroded areas, bad dents, or other conditions which indicate weakness that might render the tank unsafe for transportation service, and it shall be rejected if evidence of any such unsafe condition is discovered. The tank lagging and its jacket, if installed, need not be removed unless it is found to be impossible to reach the test pressure and to maintain a condition of pressure equilibrium after the test pressure is reached during tank testing.

(b) Every tank and accessories shall be leakage tested with gas or air after installation and proved tight at not less than the design working pressure of the tank or such greater pressure as they may contain due to pump action. The requirements of this rule shall apply with equal force to all hose used on such tanks, except that such hose may be so tested either before or after installation on the tank.

§ 78.325-19 *Data report for tank.* (a) A copy of the manufacturer's data report required by the Code under which the tank is fabricated shall be retained in the files of the motor carrier as long as the cargo tank is subject to its control.

§ 78.325-20 *Marking of cargo tanks—*
(a) *Metal identification plate.* There shall be on every cargo tank a metal plate located on the right side, near the front, in a place readily accessible for inspection. This plate shall be permanently affixed to the tank by means of soldering, brazing, welding, or other equally suitable means; and upon it shall be marked by stamping, embossing, or other means of forming letters into or on the metal of the plate itself, in the manner illustrated below, at least the information indicated below. The plate shall not be so painted as to obscure the markings thereon.

Carrier's Serial Number.¹

Manufacturer's Name.²

Date of Manufacture.²

ICC MC 304.

Design Working Pressure..... P. S. I. G.

Nominal Tank Capacity..... U. S. Gallons

Size of Compartments..... U. S. Gallons

(b) *Test date markings.* The date and pressure of the last test or retest required by this specification and the due date of the next required routine test or retest shall be painted on the tank in letters not less than 1 1/4 inches high, in legible colors, immediately below the metal identification plate specified in paragraph (a) of this section.

(c) *Certification by markings.* The markings specified in paragraphs (a) and (b) of this section shall serve to certify that the information thereby set forth is correct.

APPENDIX

Section, Paragraph, and Reason for Amendment

72.5, commodity list, provides additions and amendments to keep commodity list on a current basis.

Part 73, 3d paragraph following source citation, to remove obsolete material.

73.21 (c), to prohibit the shipment of chemically unstable materials.

73.25 (a), to correct a printer's error.

73.28 (a), Note 1, to discontinue use of non-specification drums due to improved container situation.

73.31 (g), Notes 1 and 2, to extend the expiration date of periodic retests that are presently waived for certain tank cars.

73.34 (k) (11), clarification of test procedure.

73.34 (k) (13), to extend retest period for ICC 3A480 cylinders used exclusively in anhydrous ammonia service.

73.53 (a), to delete propellant explosives from definition Type 1 of class A explosives.

73.53 (b), to delete propellant explosives from definition Type 2 of class A explosives.

73.53 (v), to provide for and define class A propellant explosives, and provide a method of determination.

73.61 (d), to provide added enclosures for explosive cartridges.

73.63 (e) (2), to provide spec. 23G fiber-board box for high explosives (gelatin dynamites).

73.64, heading and (d), to provide shipping containers for propellant explosives, class A.

73.65 (b), to provide for the transportation of soda amatol, dry.

73.65 (e), (e) (2), to provide for the transportation of wet trinitrobenzoic acid.

73.65 (e) (3), to provide spec. 5B metal barrels or drums for the transportation of cyclotrimethylenetrinitramine.

73.88 (f), to define propellant explosives, class B.

73.88 (f), Note 2, to provide test for the determination of a class B propellant explosive.

73.91 (g) (1), to provide spec. 12B fiber-board box for the packaging of toy torpedoes.

73.93 (e), to provide for proper outside marking for class B propellant explosives.

73.100 (d), to incorporate specific limits in defining cordeau detonant fuse.

73.100 (s), to incorporate latest type of igniter cord in definitions and packing therefor.

73.118 (a) and (b), to provide exemption from placarding requirements for limited shipments of flammable liquids.

73.128 (c), to provide exemption from placarding requirements for limited shipments of paints and related materials.

73.129 (b), to provide exemption from placarding requirements for limited shipments of polishes, metal, stove, furniture and wood, liquid.

73.141 (a) (7), to provide tank cars of 105A type for the transportation of certain mercaptans.

73.153 (a) and (b), to provide exemption from placarding requirements for limited shipments of flammable solids and oxidizing materials.

73.176 (g), to provide exemption from placarding requirements for limited shipments of strike-on box, book and card, matches.

73.180 (b), to provide exemption from placarding requirements for certain types of motion picture film and X-ray film, unexposed.

73.181 (a), to provide exemption from placarding requirements for limited shipments of motion-picture film.

73.182, entire section to coordinate ICC and Coast Guard regulations on nitrates.

73.192 (a), to provide exemptions for certain shipments of trinitrobenzoic acid, wet.

73.193, entire section, to provide shipping containers for the transportation of trinitrobenzoic acid, over 16 oz.

73.217 (b), to provide exemption from placarding requirements for limited shipments of calcium hypochlorite compounds, dry, and lithium hypochlorite compounds, dry.

73.218 (a) (1), to allow contract carriers to transport isopropyl percarbonate, unstabilized.

73.220 (b), to delete reference to magnesium chunks.

73.220 (c), to provide exemption from placarding requirements for limited shipments of magnesium scrap.

73.223 (b), to provide exemption from placarding requirements for limited shipments of peracetic acid solutions not exceeding 40% strength.

73.226 (b), to provide exemption from placarding requirements for limited shipments of thorium metal, powdered.

73.229 (c), to provide exemption from placarding requirements for limited shipments of chlorate and borate mixtures and chlorate and magnesium chloride mixtures.

73.231 (a) (3), to provide spec. 17H metal drums for calcium, metallic, crystalline.

73.244 (a), to provide exemption from placarding requirements for limited shipments of acids and other corrosive liquids.

73.244 (c) (49) and (c) (50), to specify that no exemptions are allowed any quantity of shipments of methylhydrazine and unsdimethylhydrazine.

73.247 (a) (5), to provide spec. 17C steel drums for certain corrosive liquids.

73.249 (c), to provide exemption from placarding requirements for limited shipments of alkaline corrosive liquids.

73.250 (a), to provide exemption from placarding requirements for limited shipments of electric storage batteries loaded with self-propelled vehicles.

73.260 (d), to provide exemption from placarding requirements for limited shipments of electric storage batteries containing electrolyte or corrosive battery fluid.

73.263 (b) (2), to provide exemption from placarding requirements for limited shipments of muriatic acid.

73.271 (a) (8), to provide nickel-lined cargo tanks of spec. MC 310 and MC 311 for the transportation of phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

73.272 (b), to provide exemption from placarding requirements for limited shipments of sulfuric acid.

73.276 (a), to provide for the transportation of methylhydrazine and unsdimethylhydrazine.

73.277 (d), to provide exemption from placarding requirements for limited shipments of hypochlorite solutions.

73.279 (b), to provide exemption from placarding requirements for limited shipments of anisoyl chloride.

73.282 (a) (1), to allow contract carriers to transport isopropyl percarbonate, stabilized.

73.289 (a) (10), to provide spec. 12B fiber-board box for formic acid and formic acid solutions.

73.302 (a), to provide exemption from placarding requirements for limited shipments of compressed gases.

73.304 (c), Note 1, to discontinue the 10% overfilling of certain cylinders with compressed gases other than liquefied or dissolved gases.

73.308 (a), Table, to provide spec. 3A480X and 4A480 cylinders for cyclopropane; to provide spec. 4B240ET for monochlorodifluoromethane.

73.313 (a), to provide exemption from placarding requirements for limited shipments of refrigerating machines.

73.314 (a), Table, to provide for the transportation of vinyl methyl ether, inhibited in tank cars.

73.345 (a), to provide exemption from placarding requirements for limited shipments of poisonous liquids, class B.

73.346 (a) (10), to provide additional tank cars for the transportation of poisonous liquids not specifically provided for.

73.357 (b) (1), to provide spec. 4BA cylinders for the transportation of chlorpicrin and mixtures of chlorpicrin containing no compressed gas or poisonous liquid, class A.

73.361, entire section, to provide for the transportation of aldrin mixtures liquid, with more than 60% aldrin.

73.364 (a), to provide exemption from placarding requirements for limited shipments of poisonous solids, class B.

73.370 (b), to provide exemption from placarding requirements for limited shipments of cyanides.

73.370 (d), to provide exemption from placarding requirements for limited shipments of cyanide of calcium and mixtures thereof.

73.376, entire section, to provide for the transportation of aldrin mixtures dry, containing more than 65% aldrin.

73.377 (e), to provide exemption from placarding requirements for limited shipments of certain class B poisons.

73.393 (f), to provide spec. 21B fiber drums for the transportation of radioactive materials.

73.432 (a), to clarify the requirements authorized for offering shipments of flammable liquids in tank cars.

74.525 (b) (12), to clarify restrictions against acceptance of rail car for class A explosives.

74.526 (a), to specify loading patterns that will facilitate the loading of class A explosives.

74.560 (a), to clarify the requirements authorized for delivery of tank car shipments of flammable liquids.

74.564 (b), to exclude Saturday in counting detention when unloading dangerous goods.

74.566 (d), to make consistent with the requirements of § 73.395 (a).

74.582 (a), to exclude Saturday when counting detention in movement of dangerous goods from stations.

74.584 (h), to provide for inspection and certification of loading and bracing of explosives placed in partially loaded cars.

¹ Carriers are not required to number their tanks serially; any designation regularly used by the carrier to identify the tank may be put in this space.

² In the event the identity of the tank manufacturer or the date of manufacture is not known and cannot be ascertained, the spaces indicated shall be marked "MAKE UNKNOWN" and/or "DATE OF MANUFACTURE UNKNOWN".

74.596 (a), to specify tank cars that are required to be inspected.

74.596 (b), to clarify inspection requirements pertaining to certain empty tank cars.

75.656 (a), to exclude counting Saturday when calculating detention in unloading dangerous goods.

77.835 (h), to require metal exteriors for trucks transporting explosives.

77.860 (d), to make consistent with the requirements of § 73.395 (a).

78.92-9 (a), to reference the type of safety device required on spec. 5P drum when used for the transportation of ethylene oxide.

78.116-8 (c), to provide for other thread form on closures for spec. 17E steel drum.

78.118-8 (c), to provide for other thread form on closures for spec. 17H steel drum.

78.205-30, to provide additional container of type spec. 12B fiberboard box for toy torpedoes only.

78.222-2 (a), Table, to correct an error.

78.325, entire section, to provide a new cargo tank specification for flammable liquids having vapor pressures above 18 pounds per square inch absolute at 115° F.

[P. R. Doc. 54-8028; Filed, Oct. 14, 1954; 8:45 a. m.]

NOTICES

DEPARTMENT OF THE TREASURY

Bureau of Customs

[475.443]

CLOTH CLASSIFIABLE AS WATERPROOF CLOTH

TARIFF CLASSIFICATION

The Bureau by its letter to the collector of customs at New York, New York, dated October 11, 1954, ruled that cloths of a kind which are not generally used in the manufacture of articles which are designed to afford protection against water to the extent expected in raincoats, protective sheeting, dress shields, umbrella fabrics, and similar articles, even when such cloths possess water repelling characteristics, are not properly classifiable as "waterproof cloth" within the meaning of that term as it is used in paragraph 907, Tariff Act of 1930.

Insofar as this decision results in the assessment of duty at a rate of duty higher than that which has heretofore been assessed under a uniform practice, it shall be applied only to merchandise entered, or withdrawn from warehouse, for consumption after 90 days from the date of publication of this decision in the weekly Treasury Decisions.

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

[P. R. Doc. 54-8127; Filed, Oct. 14, 1954; 8:50 a. m.]

DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce

[Case No. 185]

WILLIAM C. CHANG

ORDER CONDITIONALLY RESTORING EXPORT PRIVILEGES

In the matter of William C. Chang, 3611 Sacramento Street, San Francisco, California, respondent; Case No. 185.

William C. Chang having complied with the provisions of paragraph V of the Order Revoking Export Licenses and Denying Export Privileges, Case No. 185 (19 F. R. 4974, August 6, 1954) by submitting to the Director of the Investigation Staff, Bureau of Foreign Commerce, an affidavit that he has fully and fairly complied with all terms thereof during the period from August 2, 1954 until October 2, 1954, and that he has not during such period knowingly violated any provision of the Export Control Act of 1949, as amended, or any

No. 201—6

regulations issued thereunder; and no facts having been brought to the attention of the Bureau of Foreign Commerce demonstrating to the contrary, all export privileges are hereby restored to him, and the remaining period of suspension under the said order shall be held in abeyance subject to the terms and conditions of paragraph V of the said order.

Dated: October 12, 1954.

JOHN C. BORTON,

Director,

Office of Export Supply.

[P. R. Doc. 54-8099; Filed, Oct. 14, 1954; 8:45 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 1777733]

NEW MEXICO

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS RESTORED FROM TUCUMCARI PROJECT

OCTOBER 11, 1954.

An order of the Bureau of Reclamation of December 29, 1950, concurred in by the Assistant Director, Bureau of Land Management, May 3, 1951, revoked the Departmental orders of June 21, 1939 and August 11, 1944, so far as they withdrew under the provisions of the Reclamation Act of June 17, 1902 (32 Stat. 388), the following-described lands in connection with the Tucumcari Project, New Mexico, and provided that such revocation should not affect the withdrawal of any other lands by said order or affect any other order withdrawing or reserving the lands described:

NEW MEXICO PRINCIPAL MERIDIAN

T. 11 N., R. 30 E., Sec. 5, NW¼SW¼.

T. 10 N., R. 32 E., Sec. 2, NE¼SW¼.

T. 12 N., R. 33 E., Sec. 29, E½NW¼.

T. 13 N., R. 33 E., Sec. 16, SW¼SW¼.

The areas described aggregate 200 acres.

The land in T. 11 N., R. 30 E., is located about four miles northwest of Tucumcari, New Mexico. This land lies on a rough and rocky mesa suitable only for grazing. Vegetation consists of tobosa grass, a trace of grama, and considerable yucca.

The land in T. 10 N., R. 32 E., is situated three miles south and 12 miles east of Tucumcari on a river terrace adjacent to Barranca Creek. The tract has an elevation of about 3,900 feet, and lies in

the 16 inch rainfall belt. The topography is level, and the soil is sandy loam, terrace soil with slightly heavier subsoil. None of the tract or adjacent lands appear to have been cultivated. The area supports a good stand of perennial grasses which makes the tract valuable for grazing.

The land in T. 12 N., R. 33 E., is located four miles north and 14 miles east of Tucumcari on an escarpment facing the Tucumcari Creek. The tract has an elevation of about 4,000 feet, and lies in the 16 inch rainfall belt. It is dominated by rough and rocky terrain and extensive outcrops of a sterile maroon shale. About 15 acres of level land in the valley floor support a sparse cover of salt-tolerant grass, and 8 acres on the rim, some vegetation. The remainder of the tract is essentially barren. The land is used for limited grazing and is not suited to cultivation.

The land in T. 13 N., R. 33 E., is located one mile south and two miles west of the Town of Logan, New Mexico. It is located on a terrace of the Canadian River and has a level to rolling topography. The area has an elevation of about 4,000 feet, and lies in the 16 inch rainfall belt. The tract is at present used for grazing.

No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the restored lands until 10:00 a. m., on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition, location and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans' preference-right applications under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended, may be filed on or before 10:00 a. m., on the 35th day after the date of this order, and those covering the same lands shall be treated as

though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, filed on or before 10:00 a. m., on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries concerning the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Santa Fe, New Mexico.

W. G. GUERNSEY,
Associate Director.

[F. R. Doc. 54-8100; Filed, Oct. 14, 1954;
8:45 a. m.]

Office of the Secretary

[Order 2771]

SOUTHWESTERN POWER ADMINISTRATION

MARKETING OF ELECTRIC POWER AND
ENERGY; ACTING ADMINISTRATOR

OCTOBER 8, 1954.

SECTION 1. Designation as marketing agency. The Southwestern Power Administration is designated as the agency to market available surplus electric power and energy generated at the following sources pursuant to the act of December 22, 1944 (58 Stat. 887):

Blakeley Mountain.
Denison.
Narrows.
Norfolk.
Bull Shoals.
Table Rock.
Fort Gibson.
Tenkiller Ferry.
Whitney.

SEC. 2. Contracts. The Southwestern Power Administrator may, subject to the applicable provisions of the act of December 22, 1944, enter into contracts for the sale or interchange of electric power and energy in the performance of the functions assigned by section 1 of this order. The Administrator may, in writing, redelegate to officers and employees of the Administration the authority granted in this section.

SEC. 3. Designation of Acting Administrator. (a) The Assistant Administrator is authorized to perform the duties of the Administrator, in case of the death, resignation, absence or sickness of the Administrator.

(b) The Chief, Division of Administrative Services is authorized to perform the duties of the Administrator, in case of the death, resignation, absence or sickness of the Administrator and the Assistant Administrator.

(c) The Chief, Division of Operations and Engineering is authorized to perform the duties of the Administrator, in case of the death, resignation, absence or sickness of the Administrator, the Assistant Administrator, and the Chief, Division of Administrative Services.

(d) The Chief, Division of Rates and Customer Service is authorized to perform the duties of the Administrator, in

case of the death, resignation, absence or sickness of the Administrator, the Assistant Administrator, the Chief, Division of Administrative Services, and the Chief, Division of Operations and Engineering.

(e) An officer performing under the authority of this section shall sign all documents under the title "Acting Administrator."

SEC. 4. Revocation. Orders Nos. 2135 (10 F. R. 14527), 2498 as amended (13 F. R. 6891; 16 F. R. 473, 9199; 17 F. R. 4715), and 2671 are revoked.

(Sec. 2, Reorg. Plan No. 3 of 1950; 5 U. S. C., 1952 ed., sec. 1332-15, note)

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

[F. R. Doc. 54-8103; Filed, Oct. 14, 1954;
8:46 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 11101, 11102; FCC 54M-1256]

GREENWOOD BROADCASTING CO., INC., AND
CHEROKEE BROADCASTING CO.

NOTICE OF PRE-HEARING CONFERENCE

In re applications of Greenwood Broadcasting Company, Inc., Chattanooga, Tennessee, Docket No. 11101, File No. BP-9133; Max M. Blakemore and E. C. Blakemore d/b/a Cherokee Broadcasting Company, Murphy, North Carolina, Docket No. 11102, File No. BP-9213; for construction permit.

Notice is hereby given that, pursuant to §§ 1.813 and 1.841 (c) of the Commission's rules, as amended, a pre-hearing conference will be held at the office of the undersigned Hearing Examiner in Room 1702, Tempo T. Building, Washington, D. C., beginning at 4:00 p. m., Friday, October 15, 1954, on the applications in the above-entitled consolidated proceeding, for the purpose of considering the following matters:

- (1) Narrowing the issues or the areas of inquiry and proof at the hearing;
- (2) Admissions of fact and of documents which will avoid unnecessary proof;
- (3) Reports and letters relating to surveys or contracts;
- (4) Assumptions regarding the availability of equipment;
- (5) Network programming;
- (6) Assumptions regarding the availability of networks proposed;
- (7) Offers of letters in general;
- (8) The method of handling evidence relating to the past cooperation of existing stations owned and/or operated by the applicants with organizations in the area;
- (9) Proof of contracts, agreements, or understandings reduced to writing;
- (10) Stipulations;
- (11) Need for depositions;
- (12) The numbering of exhibits;
- (13) The order of offer of proof with relationship to docket number;
- (14) The date for the exchange of exhibits between the applicants, as required by Section 1.841, *supra*;

(15) Such other matters as will be conducive to an expeditious conduct of the hearing.

No witnesses will be examined on the date indicated and the record will not be opened.

Dated this 11th day of October 1954 at Washington, D. C.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] HUGH B. HUTCHISON,
Hearing Examiner.

[F. R. Doc. 54-8147; Filed, Oct. 14, 1954;
8:54 a. m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2340, G-2341]

TEXAS EASTERN TRANSMISSION CORP. AND
TEXAS EASTERN PENN-JERSEY TRANSMISSION CORP.

NOTICE OF ORDER APPROVING FORM OF LEASE,
DIRECTING FILING AND TERMINATING PROCEEDINGS

OCTOBER 11, 1954.

In the matters of Texas Eastern Transmission Corporation, Docket No. G-2340; Texas Eastern Penn-Jersey Transmission Corporation, Docket No. G-2341.

Notice is hereby given that on October 1, 1954, the Federal Power Commission issued its order adopted September 29, 1954, approving form of lease and directing filing, and terminating proceedings in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-8108; Filed, Oct. 14, 1954;
8:47 a. m.]

[Docket Nos. G-2559, G-2565]

WISCONSIN SOUTHERN GAS CO. AND
GEORGIA GAS CO.

NOTICE OF DECLARATIONS OF EXEMPTIONS

OCTOBER 11, 1954.

In the matters of Wisconsin Southern Gas Company, Docket No. G-2559; Georgia Gas Company, Docket No. G-2565.

Notice is hereby given that on October 1, 1954, the Federal Power Commission issued its declarations of exemptions from the provisions of the Natural Gas Act adopted September 29, 1954, in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-8109; Filed, Oct. 14, 1954;
8:47 a. m.]

[Docket No. G-2886]

UNITED GAS PIPE LINE CO.

NOTICE OF APPLICATION

OCTOBER 11, 1954.

United Gas Pipe Line Company (Applicant), a Delaware corporation having its principal place of business in Shreveport, Louisiana, filed on September 21, 1954, an application for a certificate of public convenience and necessity author-

izing the sale of natural gas to Willmut Gas and Oil Company for resale in Braxton, Mississippi, and the construction and operation of necessary tap and metering facilities on its 8-inch Jackson-Hattiesburg line to make the deliveries. The metering facilities Applicant proposes to install will be capable of measuring a maximum of 90 Mcf per day. Applicant proposes to finance the estimated cost of the proposed facilities out of current working funds.

Protests or petitions to intervene may be filed with the Commission in accordance with its rules of practice and procedure, § 1.8 or § 1.10 (18 CFR 1.8 or 1.10) on or before the 29th day of October 1954.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-8110; Filed, Oct. 14, 1954;
8:48 a. m.]

[Docket No. ID-1128]

ARNOLD HOGAN

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

OCTOBER 11, 1954.

Notice is hereby given that on October 4, 1954, the Federal Power Commission issued its order adopted October 1, 1954, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-8111; Filed, Oct. 14, 1954;
8:48 a. m.]

[Projects Nos. 2148, 2149]

PUGET SOUND POWER & LIGHT CO. AND
PUBLIC UTILITY DISTRICT NO. 1 OF
DOUGLAS COUNTY, WASH.

CORRECTION OF NOTICE CONCERNING PRELIMINARY PERMITS

OCTOBER 11, 1954.

Notice is hereby given that on September 22, 1954, the Federal Power Commission issued its orders adopted September 17, 1954, in the above-entitled matters, denying application for preliminary permit for Project No. 2148 and issuing preliminary permit for Project No. 2149.

[SEAL]

LEON M. FUQUAY,
Secretary.

[F. R. Doc. 54-8107; Filed, Oct. 14, 1954;
8:47 a. m.]

GENERAL SERVICES ADMINISTRATION

SECRETARY OF DEFENSE

REVISED DELEGATION OF AUTHORITY, WITH
RESPECT TO CONTRACTS FOR PROCUREMENT
OF PUBLIC UTILITY SERVICES FOR PERIODS
NOT EXCEEDING TEN YEARS

1. Pursuant to authority vested in me
by the provisions of the Federal Prop-

erty and Administrative Services Act of 1949, as amended (63 Stat. 383; 64 Stat. 591), authority is hereby delegated to the Secretary of Defense to enter into contracts for public utility services (power, gas, water, and communications) for periods extending beyond a current fiscal year but not exceeding ten years, under one or more of the following circumstances:

(a) Where there are obtained lower rates, larger discounts or more favorable conditions of service than those available under contracts the firm term of which would not extend beyond a current fiscal year;

(b) Where connection or special facility charges payable under contracts the firm term of which would not extend beyond a current fiscal year are eliminated or reduced;

(c) The utility refuses to render the desired service except under a contract the firm term of which extends beyond a current fiscal year.

2. Copies of, and other pertinent data and information with respect to such contracts executed by the Department of Defense for such utility services under the authority of this delegation will be furnished to the General Services Administration unless distribution thereof is inadvisable for reasons of security.

3. This authority shall be exercised strictly in accordance with the applicable provisions of the "Statement of areas of understanding between the Department of Defense and General Services Administration" entitled "Procurement of Utility Services (Power, Gas, Water) (15 F. R. 8227), and "Procurement of Communication Services" (15 F. R. 8226).

4. The authority herein delegated may be redelegated to any officer, official or employee within the Department of Defense.

5. This delegation of authority shall be effective as of the date hereof, and supersedes prior delegation of August 14, 1951 (16 F. R. 8309).

Dated: October 11, 1954.

EDMUND F. MANSURE,
Administrator.

[F. R. Doc. 54-8156; Filed, Oct. 13, 1954;
4:28 p. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70-3206]

ARKANSAS LOUISIANA GAS CO.

NOTICE OF EXTENSION OF BANK LOAN AGREEMENT

OCTOBER 11, 1954.

On March 22, 1954, the Commission issued its order herein pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act") permitting a declaration to become effective regarding a credit agreement between Arkansas Louisiana Gas Company ("Arkansas"), a public-utility subsidiary of Cities Service Company, a registered holding company and Guaranty Trust Company of New York ("Guaranty"). Under such credit agreement, which was

entered into on March 25, 1954, Arkansas has the right to borrow on or prior to November 1, 1954, up to \$8,500,000 at 3¼ percent per annum. Arkansas has borrowed \$1,000,000 thereunder and expects to borrow an additional \$4,000,000 thereunder on or prior to November 1, 1954. Arkansas has filed an amended declaration pursuant to sections 6 (a) and 7 of the act proposing to enter into a letter agreement with Guaranty providing in substance for the extension to August 1, 1955, of the portion of Guaranty's commitment under the credit agreement not exceeding \$3,500,000 as is unused on November 1, 1954. The letter agreement will provide that Arkansas pay a commitment fee equal to ½ of 1 percent per annum on the daily average amount of the commitment as remains unborrowed during the period from November 1, 1954, to August 1, 1955. Any amounts borrowed will mature February 1, 1956.

Notice is further given that any interested person may, not later than October 26, 1954, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request, and the nature of his interest and the issues of fact or law raised by said amended declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after October 28, 1954, said amended declaration, as filed or as amended, may be permitted to become effective, as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions, as provided in Rule U-20 (a) and Rule U-100 thereof.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 54-8105; Filed, Oct. 14, 1954;
8:47 a. m.]

[File No. 70-3301]

BLACKSTONE VALLEY GAS AND ELECTRIC
CO. ET AL.

NOTICE OF PROPOSED ISSUANCE AND SALE OF SHORT-TERM PROMISSORY NOTES BY SUBSIDIARIES TO BANKS AND PARENT

OCTOBER 11, 1954.

In the matter of Blackstone Valley Gas and Electric Company, Brockton Edison Company, Eastern Utilities Associates; File No. 70-3301.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and its public-utility subsidiaries, Blackstone Valley Gas and Electric Company ("Blackstone") and Brockton Edison Company ("Brockton"), have filed a joint application-declaration pursuant to sections 7, 10, and 12 (f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules U-42 (b) (2) and U-43 promulgated thereunder with respect to the following proposed transactions:

Blackstone and Brockton propose to borrow \$870,000 and \$1,100,000, respectively, from banks and EUA on or before July 31, 1955, such borrowings to be evidenced by unsecured promissory notes maturing on July 31, 1955. Such notes will bear interest for the initial quarter at the prime rate at the time of issuance as charged by banks for similar loans which, according to the filing, is 3 percent per annum at the present time and such notes may be prepaid, in whole or in part, without penalty prior to maturity. For subsequent quarterly periods the interest rate will be the prime rate in effect at the beginning of each such period.

The proceeds of said borrowings will be used to pay outstanding bank loan indebtedness, at or prior to maturity, or to pay for hurricane damage or for construction expenditures.

The application - declaration states that no fees, expenses, or other remuneration are to be paid in connection with the proposed transactions except legal fees and disbursements of counsel for Blackstone and Brockton. The application-declaration further states that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Applicants-declarants request that this Commission's order become effective upon issuance.

Notice is further given that any interested person may, not later than October 25, 1954, at 5:30 p. m., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said application-declaration which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, said application-declaration, as filed or as amended hereafter, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 thereof.

By the Commission.

[SEAL] ORVAL L. DuBois,
Secretary.

[F. R. Doc. 54-8106; Filed, Oct. 14, 1954;
8:47 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

SOCIETE ANONYME DOGNIN

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., includ-

ing all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Societe Anonyme Dognin, Villeurbanne (Rhône) France, Claim No. 41698; property described in Vesting Order No. 667 (8 F. R. 4993, April 17, 1943), relating to United States Letters Patent Nos. 2,039,419 and Re-issue 20,809; 2,058,989; 2,086,298; and 2,231,808.

Executed at Washington, D. C., on October 6, 1954.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 54-8129; Filed, Oct. 14, 1954;
8:51 a. m.]

SOCIETE PRODUITS CHIMIQUES "LION NOIR" PRODUITS D'ENTRETIEN "LION NOIR-ECLIPSE"

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Societe Produits Chimiques "Lion Noir" Produits d'Entretien "Lion Noir-Eclipse", Paris, France; Claim No. 41689; property described in Vesting Order No. 255 (7 F. R. 8903, November 3, 1942), relating to United States Trademark Registration Nos. 161,629; 161,630 and 161,631.

Executed at Washington, D. C., on October 6, 1954.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 54-8130; Filed, Oct. 14, 1954;
8:51 a. m.]

ANDRE VICTOR LEON CLEMENT DEBRIE

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., and Property

Andre Victor Leon Clement Debrie, Paris, France; Claim No. 41389; property described

in Vesting Order No. 666 (8 F. R. 5027, April 17, 1943), relating to United States Letters Patent Nos. 1,907,253; 1,988,961; 2,061,552; 2,106,115; 2,127,768; and 2,191,849.

Executed at Washington, D. C., on October 6, 1954.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 54-8131; Filed, Oct. 14, 1954;
8:51 a. m.]

KUNIGUNDE LEITNER AND ROSALIA OFNER

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location
Kunigunde Leitner, Leoben, Steiermark, Austria; \$483.95 in the Treasury of the United States;

Rosalia Ofner, St. Marein, Steiermark, Austria; \$483.95 in the Treasury of the United States; Claim No. 41207, Vesting Order No. 2678.

Executed at Washington, D. C., on October 6, 1954.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 54-8132; Filed, Oct. 14, 1954;
8:51 a. m.]

BERNARD FIRSZT

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location
Bernard Firsz, Tel Aviv, Israel, Claim No. 57708, Vesting Order No. 693; \$430.69 in the Treasury of the United States.

Executed at Washington, D. C., on October 6, 1954.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 54-8133; Filed, Oct. 14, 1954;
8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 29794]

LIGHTING FIXTURES, FLUORESCENT, FROM CEDARS AND STOUT, MISS., TO PACIFIC COAST TERRITORY

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: W. J. Prueter, Agent, for carriers parties to schedule listed below.

Commodities involved: Lighting fixtures, fluorescent, and related articles, carloads.

From: Cedars and Stout, Miss.

To: Pacific coast territory.

Grounds for relief: Rail competition, circuitry, market competition, and to maintain grouping.

Schedules filed containing proposed rates: W. J. Prueter, Agent, I. C. C. No. 1559, supp. 62.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8116; Filed, Oct. 14, 1954;
8:48 a. m.]

[4th Sec. Application 29795]

STEEL OR WROUGHT IRON PIPE FROM OFFICIAL, WESTERN TRUNKLINE, SOUTHERN AND SOUTHWESTERN TERRITORIES TO TEXAS POINTS

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to schedule listed below.

Commodities involved: Steel or wrought iron pipe and related articles, carloads.

From: Points in official, western trunk-line, southern and southwestern territories.

To: McCamey, Odessa and Warfield, Tex., and adjacent points in Texas.

Grounds for relief: Rail competition, circuitry, market competition, to maintain grouping, and additional destinations.

Schedules filed containing proposed rates: F. C. Kratzmeir, Agent, I. C. C. No. 4116, supp. 6.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8117; Filed, Oct. 14, 1954;
8:49 a. m.]

[4th Sec. Application 29796]

SCRAP IRON FROM ST. LOUIS, MO., AND EAST ST. LOUIS, ILL., TO EMCO, ALA.

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: F. C. Kratzmeir, Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1329, pursuant to fourth-section order No. 16101.

Commodities involved: Scrap iron or steel, carloads.

From: St. Louis, Mo., and East St. Louis, Ill.

To: Emco, Ala.

Grounds for relief: Rail competition, circuitry, and operation through higher-rated territory.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing,

upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8118; Filed, Oct. 14, 1954;
8:49 a. m.]

[4th Sec. Application 29797]

ENGINES, STEAM OR INTERNAL COMBUSTION, FROM DETROIT, MICH., TO ENTERPRISE, ALA.

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4510, pursuant to fourth-section order No. 17220.

Commodities involved: Engines, steam or internal combustion; traction or tractors, steam or internal combustion, carloads.

From: Detroit, Mich.

To: Enterprise, Ala.

Grounds for relief: Competition with rail carriers, and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8119; Filed, Oct. 14, 1954;
8:49 a. m.]

[4th Sec. Application 29798]

CONTAINERS FROM NILES, WARREN AND NORTH WARREN, OHIO, TO NEW YORK AND MAINE

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No.

NOTICES

4542, pursuant to fourth-section order No. 17220.

Commodities involved: Containers, cans, sheet iron or steel, with or without equipment, carloads.

From: Niles, Warren and North Warren, Ohio.

To: Brooklyn and New York, N. Y., and Lucaston, Maine.

Grounds for relief: Competition with rail carriers, and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing,

upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8120; Filed, Oct. 14, 1954;
8:49 a. m.]

[4th Sec. Application 29799]

AUTOMOBILE BODIES FROM CHICAGO, ILL.,
TO NORFOLK, VA., AND FROM IONIA,
MICH., TO METUCHEN, N. J.

APPLICATION FOR RELIEF

OCTOBER 12, 1954.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: H. R. Hinsch, Agent, for carriers parties to his tariff I. C. C. No. 4542, pursuant to fourth-section order No. 17220.

Commodities involved: Bodies, automobile, carloads.

From: Ionia, Mich., to Metuchen, N. J., and from Chicago, Ill., to Norfolk, Va.

Grounds for relief: Competition with rail carriers and circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission.

[SEAL]

GEORGE W. LAIRD,
Secretary.

[F. R. Doc. 54-8121; Filed, Oct. 14, 1954;
8:49 a. m.]